



## CITY COUNCIL AGENDA

**NOTICE TO READERS:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (Section 7) and Citizen Presentations (Section 12) are reserved for comments on any issues or items pertaining to City business except those for which a formal public hearing is scheduled under Section 10 when the Mayor will call for public testimony. Please limit comments to no more than 5 minutes duration except when addressing the City Council during Section 12 of the agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Report of City Officials
  - A. City Manager's Report
5. Opening of the Public Hearing for the Fonay Annexation, CLUP Amendment, Rezoning, PDP for PUD
6. City Council Comments
7. Presentations
  - A. Employee Service Awards
  - B. 2008 Metropolitan Mayors' and Commissioners' Youth Award
8. Citizen Communication (5 minutes or less)

The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to remove an item for separate discussion. Items removed from the consent agenda will be considered immediately following adoption of the amended Consent Agenda.

9. Consent Agenda
  - A. Financial Report for January 2008
  - B. Purchase of a Utility Van
  - C. Purchase of Gasoline and Diesel Fuel for City Vehicles
  - D. Intergraph Corporation Software Maintenance Agreement
  - E. Reimbursement of Costs Related to the Axis Development
10. Appointments and Resignations
  - A. Resolution No. 9 re Appointments to Boards and Commissions
11. Public Hearings and Other New Business
  - A. Public Hearing for a Rezoning from Open District to PUD for the Savory Farm Estates PUD
  - B. Councillor's Bill No. 4 re Rezoning from Open District to PUD for the Savory Farm Estates PUD
  - C. Public Hearing for an Amendment to the Comprehensive Land Use Plan for the North I-25 District Center
  - D. Councillor's Bill No. 5 re Amendment to the Comprehensive Land Use Plan for the North I-25 District Center
  - E. Public Hearing on the Application to Designate the Margaret O'Gorman House as a Local Historic Landmark
  - F. Resolution No. 10 Designating the Margaret O'Gorman House at 8198 Irving Street as a Local Historic Landmark
  - G. Public Hearing on Approving the Service Plan for Orchard Park Place North Metropolitan District
  - H. Resolution No. 11 Approving the Service Plan for Orchard Park Place North Metropolitan District
  - I. Councillor's Bill No. 6 re 2007 4<sup>th</sup> Quarter Budget Supplemental Appropriation
  - J. 72<sup>nd</sup> Avenue and Sheridan Boulevard Roadway Project Expenditures
  - K. Resolution No. 12 re Traffic Signal Maintenance IGA with the Colorado Department of Transportation
  - L. Resolution No. 13 re Spring 2008 Great Outdoors Colorado Grant Application
  - M. Councillor's Bill No. 7 re Lease of Open Space Property to Doulos Ministries
  - N. Resolution No. 14 re Consent to Modification of Revenue Sharing IGA with Broomfield
  - O. Table Resolution No. 15 re Annexation Finding re Fonay Property and Bull Canal Right-of-Way
  - P. Table Councillor's Bill No. 8 re Annexation of the Fonay Property and Bull Canal Right-of-Way
  - Q. Councillor's Bill No. 9 re CLUP Amendment re Fonay Property and Bull Canal Right-of-Way
  - R. Councillor's Bill No. 10 re Rezoning the Fonay Property and Bull Canal Right-of-Way from A-3 to PUD
  - S. 6<sup>th</sup> Amended Preliminary Development Plan for the North Huron PUD which includes the Fonay Property
12. Old Business and Passage of Ordinances on Second Reading

**13. Citizen Presentations (longer than 5 minutes), Miscellaneous Business, and Executive Session**

A. City Council

**14. Continue the Public Hearing for the Fonay Annexation, CLUP Amendment, Rezoning, PDP for PUD**

**15. Adjournment**

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY MEETING (separate agenda)**

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**GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

**A.** The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.

**B.** Any person wishing to speak other than the applicant will be required to fill out a “Request to Speak or Request to have Name Entered into the Record” form indicating whether they wish to comment during the public hearing or would like to have their name recorded as having an opinion on the public hearing issue. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.

**C.** The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.

**D.** The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

**E.** When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.

**F.** City Staff enters a copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;

**G.** The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);

**H.** Staff presents any additional clarification necessary and states the Planning Commission recommendation;

**I.** All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.

**J.** Final comments/rebuttal received from property owner;

**K.** Final comments from City Staff and Staff recommendation.

**L.** Public hearing is closed.

**M.** If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, FEBRUARY 25, 2008 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE

Mayor McNally led the Council, Staff, and audience in the Pledge of Allegiance.

ROLL CALL

Mayor McNally, Mayor Pro Tem Dittman and Councillors Briggs, Kaiser, Lindsey, Major, and Winter were present at roll call. J. Brent McFall, City Manager, Martin McCullough, City Attorney, and Linda Yeager, City Clerk, also were present.

CONSIDERATION OF MINUTES

Mayor Pro Tem Dittman moved, seconded by Kaiser, to approve the minutes of the regular meeting of February 11, 2008, as presented. The motion passed unanimously.

CITY MANAGER'S REPORT

Mr. McFall reviewed the March City Council meeting schedule, noting that Council would meet in Study Session on March 3 and 24 and would conduct regular meetings on March 17 and 31. This schedule change had been made to accommodate City Council's attendance at the National League of Cities Annual Conference.

The Westminster Economic Development Authority (WEDA) Board of Directors would convene a meeting immediately following this meeting; and Council would convene a post-meeting in the Council Board Room after the WEDA meeting adjourned. The public was welcome to attend.

In conclusion, Mr. McFall explained that the next item on the agenda was a public hearing to consider the Fonay annexation, Comprehensive Land Use Plan amendment, rezone, and preliminary development plan for the Planned Unit Development. Due to a publication error, sufficient legal notice had not been provided for the hearing, and the hearing needed to be either cancelled and rescheduled for March 17 or continued to March 17. The recommended procedure to follow was for the Mayor to ascertain whether or not any one was present to testify concerning the Fonay proposal. If so, the public hearing should be opened and the testimony received. If no one wished to testify, a motion to cancel the hearing and reschedule it for March 17, followed by a motion to table Agenda Items 11 (O) through 11 (S) to March 17 were in order.

PUBLIC HEARING RE FONAY PROPERTY ANNEXATION, CLUP AMENDMENT, REZONE, AND PDP

Mayor McNally asked if any one present wished to testify on this proposal. No one responded.

Mayor Pro Tem Dittman moved to cancel the public hearing on the Fonay property annexation, Comprehensive Land Use Plan amendment, rezone, and preliminary development plan and to reschedule it for March 17, 2008. Councillor Major seconded the motion, and it carried with all Councillors voting yes.

Councillor Briggs moved to table Agenda Items 11 (O) through 11 (S) to the March 17, 2008, Council meeting. Councillor Lindsey seconded the motion, and it passed unanimously.

CITY COUNCIL COMMENTS

Mayor Pro Tem Dittman reported that Aaron Gagne, Capital Projects Coordinator and a member of the Naval Reserve, was being dispatched to Iraq for a year of active duty, effective March 1. The Mayor Pro Tem voiced appreciation of Mr. Gagne's service and hoped for his safety during deployment.

Councillor Briggs reported that he and Councillor Lindsey had met with the new Commissioner for the Colorado Department of Transportation. Transportation issues locally and throughout Colorado were of major concern to elected and appointed officials, as well as the public. On another subject, local Rotary Clubs were joining forces

with The Orchard Town Center in a fundraising activity to sell tiles that could be imprinted with a handprint, footprint, or paw print before being inlaid on the walkways near the AMC Theaters. Over time the inlaid tiles could be seen by friends, relatives and visitors. Beneficiary of the money raised from the activity would be the Westminster Legacy Foundation.

Councillor Winter had attended the Adams County Road Home meeting to discuss the challenges of homelessness and poverty. Every night in Westminster 1,985 people, of which half were children, experienced homelessness. Members of the consortium were dedicated to addressing the problem.

Mayor McNally reported that the Denver Regional Council of Governments (DRCOG) had met recently and discussed transportation issues. Representatives learned of upcoming announcements to be made concerning a \$50 million cut in funding. Similar news had been relayed to City Council during recent discussions with federal officials in Washington, DC. The poor condition of roadways and the need for new roadways in the state were reaching critical levels.

Councillor Briggs announced that Mayor McNally had been elected the Chair of DRCOG and congratulated her for being the first Westminster official to Chair the organization.

#### EMPLOYEE SERVICE AWARDS

Councillor Major presented certificates and pins for 20 years of service to Kate Amack, Vicky Bunsen, John Kasza, Karen Wetzstein, and Robert Wood. Mayor McNally presented certificates, pins, and monetary stipends for 25 years of service to Dave Leiker, Chris Pardo, and Bob Van Briesen.

#### 2007 METROPOLITAN MAYORS' AND COMMISSIONER'S YOUTH AWARDS

On behalf of City Council, Councillor Winter recognized and presented certificates of achievement to Yasmin Castillo from Shaw Heights Middle School, nominated by Mary Ann Stringile; Brandon Arellano from Moore Middle School, nominated by Jen Rockey; Tiffany Kekumano from Hidden Lake High School, nominated by Claudette Trujillo; Vanessa Lopez from Hidden Lake High School, nominated by Lorrie Prince; Jordan Smaldone from Hidden Lake High School, nominated by Claudette Trujillo; Jessica Shelton from Hidden Lake High School, nominated by Claudette Trujillo; Kyle "DJ" Layton from Hidden Lake High School, nominated by Chris Sekera; LaToya Atler from Hidden Lake High School, nominated by Lorrie Prince; Michael Melecio from Hidden Lake High School, nominated by Chris Sekera and Lorrie Prince; Kyle Faulkner from Standley Lake High School, nominated by Mary Hamilton; Vickie Garcia from Westminster High School, nominated by Wendi Witter; Dominic Speer from Westminster High School, nominated by Frances Groff-Gonzales; Shirley Garcia from Westminster High School, nominated by Wendi Witter and Judy VonGaia; Phuc Nguyen from Westminster High School, nominated by Laura Mooney; and SheLeigh Gussenbauer from Westminster High School, nominated by Dee Horsburgh. The award recognized teenagers between the ages of 13 and 19 who had overcome personal adversity and created positive change in their environments.

#### CONSENT AGENDA

The following items were submitted for Council's consideration on the consent agenda: the January 2008 Financial Report; award the bid for a replacement utility van to Transwest Trucks, the low bidder, for a Freightline chassis and a Morgan Olson body in the amount of \$57,744; ratify a \$71,339.29 purchase from Gray Oil for fuel and award the bid for unleaded gasoline and diesel fuel to Gray Oil to be delivered on an as-needed basis, in an amount not to exceed \$1,042,537 for total 2008 purchases; authorize the City Manager to sign a contract with Intergraph Corporation for 2008 annual software maintenance in the amount of \$151,015; and authorize the payment of \$50,000 to the NBC Metro District for reimbursement of legal and other costs related to the exclusion of City-owned land from the Circle Point NBC Metropolitan District.

Mayor McNally inquired if any member of Council wished to remove an item from the consent agenda for individual consideration. No one made such a request.

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Major, to approve the consent agenda as presented. The motion passed with all Council members voting yes.

RESOLUTION NO. 9 RE APOINTMENTS TO BOARDS AND COMMISSIONS

It was moved by Councillor Major, seconded by Councillor Kaiser, to adopt Resolution No. 9 to fill vacancies on the Board of Building Code Appeals, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Open Space Advisory Board, the Parks, Recreation and Libraries Advisory Board, the Special Permit and License Board, and the Transportation Commission. At roll call the motion passed unanimously.

PUBLIC HEARING TO REZONE SAVORY FARM ESTATES PUD

At 7:45 p.m., Mayor McNally opened a public hearing to consider the rezoning of an 8.133-acre site located east of Federal Boulevard at the approximate alignment of 109<sup>th</sup> Avenue from Open District (O1) to Planned Unit Development (PUD). Dave Shinneman, Planning Manager, presented background information. The property, currently vacant and proposed for development of 24 single-family detached residential units, was abutted by Savory Farms Subdivision to the north and City-owned open space and the Legacy Ridge Golf Course to the east and south. Mr. Shinneman entered the agenda memorandum and attached documents into the record. Notice of this hearing had been published in the *Westminster Window*, posted on the property, and mailed to property owners within 300 feet.

Mayor McNally invited public testimony. Frank Stache of the Legacy Ridge Townhomes on 106<sup>th</sup> Loop, asked that the property remain open space rather than be rezoned and developed for residential purposes. It would be nice to have one open space parcel facing Federal Boulevard. Mr. McFall explained that the property was privately owned and was zoned Open District, not Open Space. The Open District zone was a holding zone for newly annexed property until development was proposed.

Mr. Shinneman reported that the Planning Commission had considered this proposal on February 12, 2008, and had voted to recommend approval of the requested rezone.

No others wished to speak. The Mayor closed the hearing 7:56 p.m.

COUNCILLOR'S BILL NO. 4 TO REZONE THE SAVORY FARM ESTATES PUD

Upon a motion by Councillor Briggs, seconded by Councillor Winter, the Council voted unanimously at roll call to pass Councillor's Bill No. 4 on first reading approving a rezoning from Open District to Planned Unit Development for Savory Farm Estates Planned Unit Development based on finding that the criteria in Section 11-5-14 of the Westminster Municipal Code had been met.

PUBLIC HEARING RE CLUP AMENDMENT FOR NORTH I-25 DISTRICT CENTER

At 7:57 p.m., Mayor McNally opened at public hearing to consider a Comprehensive Land Use Plan amendment for the North I-25 District Center. Mr. Shinneman advised that the I-25 Corridor Study had been completed in February 2002 and land uses planned for the corridor had become more defined since then. The proposed amendment would not change the North I-25 District Center land use designation, but rather the land uses for a portion of a subarea plan would be adjusted and defined through both text and a sketch plan map for the North I-25 District Center. Mr. Shinneman entered the agenda memorandum and attached documents into the record and advised that public notice of this hearing had been published, posted, and mailed per Westminster Municipal Code requirements.

The Mayor invited public testimony. No one wished to speak.

Mr. Shinneman said in conclusion that the Planning Commission had reviewed this proposal on February 12, 2008, and had voted to recommend approval.

The Mayor closed the hearing at 8:02 p.m.

#### COUNCILLOR'S BILL NO. 5 RE NORTH I-25 DISTRICT CENTER CLUP AMENDMENT

It was moved by Mayor Pro Tem Dittman and seconded by Councillor Major to pass Councillor's Bill No. 5 on first reading amending the Comprehensive Land Use Plan for a subarea of the North I-25 District Center consisting of a map and related descriptive text. This action was based on a finding that the proposed amendment would be in the public good and that there was justification for the proposed change and the Plan was in need of revision as proposed; the amendment was in conformance with the overall purpose and intent and the goals and policies of the Plan; the proposed amendment was compatible with existing and planned surrounding land uses; and the proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems. At roll call, the motion passed unanimously.

#### PUBLIC HEARING RE DESIGNATING MARGARET O'GORMAN HOUSE AS HISTORIC LANDMARK

At 8:03 p.m., the Mayor opened a public hearing to consider an application to designate the Margaret O'Gorman House, 8193 Irving Street, a local historic landmark. Vicky Bunsen, Community Development Programs Coordinator, provided background information and demonstrated in a PowerPoint presentation how the O'Gorman House satisfied criteria of the Westminster Municipal Code for landmark designation. Ms. Bunsen entered the agenda memorandum and attachments and advised that this hearing had been properly noticed in accordance with Westminster Municipal Code. The applicant was Linda Sweizer, owner of the O'Gorman House. The Historic Landmark Board had reviewed the application and recommended approval of the landmark designation.

Linda Sweizer appreciated the opportunity to preserve the O'Gorman House as a historic landmark, and thanked Council.

No others wished to testify and the Mayor closed the hearing at 8:09 p.m.

#### RESOLUTION NO. 10 DESIGNATING O'GORMAN HOUSE A LOCAL HISTORIC LANDMARK

Councillor Briggs moved to adopt Resolution No. 10 designating the Margaret O'Gorman House at 8198 Irving Street as a local historic landmark pursuant to Section 11-13-5 of the Westminster Municipal Code. Councillor Kaiser seconded the motion, and it carried unanimously at roll call.

#### PUBLIC HEARING RE ORCHARD PARK PLACE NORTH METROPOLITAN DISTRICT

At 8:10 p.m., Mayor McNally opened a public hearing to consider the service plan for Orchard Park Place North Metropolitan District. The developers of an approximate 56.2-acre parcel located on the northern end of the property between 136<sup>th</sup> and 144<sup>th</sup> Avenues and I-25 and Huron proposed the creation of a metropolitan special district to fund infrastructure to serve the Orchard Park Place commercial development. The developer was AZG Westminster, LLC. To create a district, a City-approved Service Plan was needed. The plan proposed now was a skeletal plan that, if approved, would allow the developer to proceed with a question to form the district at a May election. No mill levy could be assessed or bonds issued until the district was officially formed through an election. Finance Director Tammy Hitchens was present to answer questions.

Mayor McNally asked if anyone wished to testify. No one responded and there were no questions from City Council. She closed the hearing at 8:11 p.m.

RESOLUTION NO. 11 RE ORCHARD PARK PLACE NORTH METROPOLITAN DISTRICT

It was moved by Mayor Pro Tem Dittman, seconded by Councillor Major, to adopt Resolution No. 11 approving the service plan for Orchard Park Place North Metropolitan District. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 6 RE 2007 4<sup>TH</sup> QUARTER BUDGET SUPPLEMENTAL APPROPRIATION

Councillor Major moved to pass Councillor's Bill No. 6 on first reading providing for supplementary appropriations to the 2007 budget of the General, Storm Drainage, POST, WEDA, General Capital Improvement, CDBG, and Debt Service Funds. The motion was seconded by Mayor Pro Tem Dittman and passed unanimously on roll call vote.

72<sup>ND</sup> AVENUE AND SHERIDAN BOULEVARD ROADWAY PROJECT EXPENDITURES

It was moved by Councillor Lindsey and seconded by Councillor Major to authorize a \$352,500 allocation to supplement the previously authorized budget for the 72<sup>nd</sup> Avenue and Sheridan Boulevard roadway construction project; to authorize a \$62,886 payment to Xcel Energy for the installation of street lights; and to ratify expenditures for right-of-way purchases required for the project to Jerry Tepper in the amount of \$782,400 and to McDonalds in the amount of \$70,052. The motion carried with all Council members voting yes.

RESOLUTION NO. 12 RE TRAFFIC SIGNAL MAINTENANCE IGA WITH CDOT

Councillor Major moved to adopt Resolution No. 12 authorizing the City Manager to execute an Intergovernmental Agreement with the Colorado Department of Transportation regarding traffic signal maintenance for a five-year period. Mayor Pro Tem Dittman seconded the motion, and it passed unanimously at roll call.

RESOLUTION NO. 13 RE SPRING 2008 GREAT OUTDOORS COLORADO GRANT APPLICATION

It was moved by Councillor Major, seconded by Councillor Lindsey, to adopt Resolution No. 13 authorizing the City to pursue a grant with Great Outdoors Colorado (GOCO) during the spring 2008 cycle for the acquisition of the Doulos Ministries' parcel. At roll call, the motion passed unanimously.

COUNCILLOR'S BILL NO. 7 RE LEASE OF OPEN SPACE PROPERTY TO DOULOS MINISTRIES

Upon a motion by Councillor Briggs, seconded by Mayor Pro Tem Dittman, the Council voted unanimously on roll call vote to pass Councillor's Bill No. 7 on first reading authorizing the execution of a 10-month lease in substantially the same form as that attached to the agenda memorandum for the Doulos Ministries' property located at 12550 Zuni Street.

RESOLUTION NO. 14 RE MODIFICATION OF REVENUE SHARING IGA WITH BROOMFIELD

Councillor Briggs moved to adopt Resolution No. 14 consenting to the assignment of revenues pursuant to the 1999 Intergovernmental Agreement (IGA) between Broomfield and Westminster and authorizing the City Manager to execute all documents necessary to implement the assignment, including but not limited to, such amendments to the IGA and the Memorandum Agreement that the City Managers of the respective cities may deem appropriate. Councillor Major seconded the motion, which passed unanimously on roll call vote.

ADJOURNMENT

There was no further business to come before the City Council, and the Mayor adjourned the meeting at 8:18 p.m.

ATTEST:

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Mayor

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City Clerk



## Summary of Proceedings

Summary of proceedings of the City of Westminster City Council meeting of Monday, February 25, 2008. Mayor McNally, Mayor Pro Tem Dittman, and Councillors Briggs, Kaiser, Lindsey, Major, and Winter were present at roll call.

The minutes of the regular meeting of February 11, 2008, were approved as presented.

Council presented length of service awards to employees celebrating 20 and 25 years of tenure with the City and recognized recipients of the 2008 Metropolitan Mayors and Commissioners Youth Award.

Council approved the following: January 2008 Financial Report; purchase of a utility van; purchase of gasoline and diesel fuel for City vehicles; Intergraph Corporation Software Maintenance Agreement; reimbursement of costs related to the Axis Development; and 72<sup>nd</sup>/Sheridan Roadway Project expenditures.

Council cancelled the Fonay annexation, CLUP amendment, rezone, PDP for PUD hearing and rescheduled it for March 17, 2008.

Council tabled until March 17, 2008, Resolution No. 15 re annexation finding on Fonay property and Bull Canal right-of-way; Councillor's Bill No. 8 re annexation of the Fonay property and Bull Canal right-of-way; Councillor's Bill No. 9 re CLUP Amendment for Fonay property and Bull Canal right-of-way; Councillor's Bill No. 10 rezoning the Fonay property and Bull Canal right-of-way from A-3 to PUD; and the 6<sup>th</sup> Amended PDP for the North Huron PUD that includes the Fonay property.

Council conducted the following public hearings: a rezone from Open District to PUD for the Savory Farm Estates PUD; an amendment to the CLUP for the North I-25 District Center; the application to designate the Margaret O'Gorman House as a local historic landmark; and to approve the service plan for Orchard Park Place North Metropolitan District.

Council adopted the following Resolutions: Resolution No. 9 re appointments to Boards and Commissions; Resolution No. 10 designating the Margaret O'Gorman House a local historic landmark; Resolution No. 11 approving the Orchard Park Place North Metropolitan District service plan; Resolution No. 12 re traffic signal maintenance IGA with the CDOT; Resolution No. 13 re Spring 2008 GOCO grant application; and Resolution No. 14 re consent to modification of revenue sharing IGA with Broomfield.

The following Councillor's Bills were passed on first reading:

**A BILL FOR AN ORDINANCE AMENDING THE ZONING OF THE 8.133 ACRE SAVORY FARM ESTATES PUD SITE ON THE EAST SIDE OF FEDERAL BOULEVARD AT APPROXIMATELY 109<sup>TH</sup> AVENUE, ADAMS COUNTY, COLORADO FROM O-1 TO PUD.** Purpose: rezoning from Open District to Planned Unit Development of Savory Farm Estates PUD.

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN FOR THE NORTH I-25 DISTRICT CENTER.** Purpose: amending the CLUP for a subarea of the North I-25 District Center.

**A BILL FOR AN ORDINANCE AMENDING THE 2007 BUDGETS OF THE GENERAL, STORM DRAINAGE, POST, WEDA, GENERAL CAPITAL IMPROVEMENT, CDBG, AND DEBT SERVICE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THE FUNDS.** Purpose: provide supplementary appropriations to the 2007 budget of the General, Storm Drainage, POST, WEDA, General Capital Improvement, CDBG, and Debt Service Funds.

**A BILL FOR AN ORDINANCE APPROVING A LEASE AGREEMENT FOR THE LEASE OF THE DOULOS PROPERTY LOCATED AT 12550 ZUNI STREET.** Purpose: authorizing a 10-month lease for the Doulos Ministries property at 12550 Zuni Street.

The meeting adjourned at 8:18 p.m.

By order of the Westminster City Council

Linda Yeager, MMC, City Clerk

Published in the Westminster Window on March 6, 2008



## Agenda Item 5, 11 O-S & 14

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
February 25, 2008



**SUBJECT:** Public Hearing and Action on the Fonay Annexation, Comprehensive Land Use Plan Amendment, Rezoning, and the Sixth Amended Preliminary Development Plan for the North Huron Planned Unit Development

**Prepared By:** Max Ruppeck, Senior Project Manager

### Recommended City Council Action

1. Open the public hearing for one hour for anyone wishing to testify on the proposed Fonay Annexation or the Comprehensive Land Use Plan Amendment, Planned Unit Development Zoning Ordinance, or the Sixth Amended Preliminary Development Plan for the North Huron Planned Unit Development.
2. Continue the public hearing until March 17, 2008.
3. Table Resolution No. 15 making certain findings of fact as required under Section 31-12-110 C.R.S. regarding the Fonay property and Bull Canal right-of-way annexation.
4. Table Councillor's Bill No. 8 annexing the Fonay property and the Bull Canal right-of-way to the City of Westminster by Emergency Ordinance.
5. Pass Councillor's Bill No. 9 on first reading to approve the Comprehensive Land Use Plan amendment for the Fonay property and Bull Canal right-of-way designating the property "District Center." This action is based on a finding that the proposed amendment will be in the public good and that:
  - a) There is justification for the proposed change and the Plan is in need of revision as proposed; and
  - b) The proposed amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
  - c) The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d) The proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.
6. Pass Councillor's Bill No. 10 on first reading rezoning the Fonay property and Bull Canal right-of-way from Adams County A-3 to City of Westminster Planned Unit Development. This recommendation is based on a finding that the criteria set forth in Section 11-5-3 of the Westminster Municipal Code have been met.
7. Approve the Sixth Amended Preliminary Development Plan for the North Huron Planned Unit Development (including the Fonay property), conditional on the annexation of the Fonay and Bull Canal property on March 17, 2008. This recommendation is based on a finding that the criteria set forth in Section 11-5-14 of the Westminster Municipal Code have been met.

**Summary Statement**

- The property to be annexed, the Fonay property and Bull Canal right-of-way, consists of 72.594 acres in unincorporated Adams County. This property is located between I-25 and Huron Street south of the W. 142<sup>nd</sup> Avenue alignment.
- The proposed Preliminary Development Plan (PDP) amendment includes the Fonay Property and a portion of the North Huron Planned Unit Development located at the southeast corner of 144<sup>th</sup> Avenue and Huron Street, consisting of 65.76 acres. The PDP includes the Bull Canal right-of-way on the Fonay property.
- Due to a technical defect in the annexation notice for tonight's hearing (first published by the applicant 28 days prior to the public hearing rather than the required 30 days) a new set of notices was published for the City Council meeting on March 17, 2008. For February 25, 2008 staff is recommending the following:
  - a) Open the public hearing and allow all present to testify on the annexation, Comprehensive Land Use Plan, rezoning, and Preliminary Development Plan.
  - b) After the public hearing on these items has been opened for one hour, act to continue the public hearing and table the annexation related items to March 17, 2008, City Council meeting.
  - c) Approve the Comprehensive Land Use Plan amendment and the rezoning ordinances on first reading. The second reading of these ordinances would take place on March 17, 2008.
  - d) Conditionally approve the Sixth Amended Preliminary Development Plan subject to final approval of the Comprehensive Land Use Plan, rezoning and annexation ordinances.

**Expenditure Required:** \$0

**Source of Funds:** NA

### **Planning Commission Recommendation**

At the February 12, 2008, Planning Commission meeting the Commissioners voted unanimously (6-0) to recommend that the City Council approve the annexation of the Fonay property and Bull Canal Right-of-Way; that the Comprehensive Land Use Plan be amended to designate this property "District Center"; that the property be rezoned from Adams County A-3 to Planned Unit Development (PUD); and that the Sixth Amended Preliminary Development Plan for the North Huron Planned Unit Development (including the Fonay Property) be approved.

Two individuals spoke at the public hearing. Mr. Rick White who owns land on the east side of I-25 (Thornton) supports the project but is concerned with the drainage flows across I-25 onto his property. Drainage improvements are currently being designed and will be addressed by future plans. Mr. Richard Wagner, a Lexington resident and former President of the Lexington HOA, referred to the Foster Preliminary Development Plan (PDP) that states there shall be no intersection at Lexington Avenue and Huron Street. This issue will be addressed when the property to the south submits their development plans and requested that the developer and City include the Lexington residents in those discussions.

### **Policy Issues**

1. Should the City annex the Fonay property?
2. Should the City approve a Comprehensive Land Use Plan (CLUP) amendment for the Fonay property to District Center?
3. Should the City approve the rezoning of the Fonay property from Adams County A-3 to City of Westminster Planned Unit Development (PUD)?
4. Should the City approve the 6<sup>th</sup> Amended Preliminary Development Plan (PDP) for the North Huron PUD?

### **Alternatives**

1. Deny the annexation of the Fonay property. Staff does not support this alternative because the annexation would greatly benefit the City by increasing the potential for tax revenue from the retail portions of the property and the employment base for the medical and office uses.
2. Deny the CLUP designation of District Center. Staff does not support this alternative because the District Center designation is the most appropriate in the Huron Street/I-25 corridor and is consistent with the designation of the properties to the north and south.
3. Deny the rezoning of the Fonay property to PUD. This recommendation is not supported by staff because the proposed zoning is in compliance with the requirements of the City Code.
4. Deny the Sixth Amended PDP. Staff does not support this alternative because the proposed PDP is in compliance with the provisions of City Code.

### **Background Information**

#### Nature of Request

The applicant is combining two approximately equally sized properties into an overall development plan. The northern property consisting of 56.3 acres currently within the City of Westminster, is a part of the North Huron PUD. The southern property (the Fonay property) consists of 72.6 acres and must be annexed into the City, assigned a CLUP designation (District Center) and rezoned to PUD. The combined properties (totaling 128.9 acres) will make up the 6<sup>th</sup> Amended PDP of the North Huron PUD.

The land uses proposed in the PDP are as follows:

- a. Commercial/Retail uses on Parcel 4A (17.4 acres) at the southeast corner of 144<sup>th</sup> Avenue and Huron Street.
- b. Hospital/Medical Office uses on Parcel 4B (33.4 acres) at the southwest corner of I-25 and W. 144<sup>th</sup> Ave.
- c. Hospital/Medical Office and ancillary retail on Parcel 4C (16.8 acres) directly south of Parcel 4B.
- d. Retail Commercial, Office, Hospitality and residential uses on Parcel 4D (19.5 acres) along Huron Street south of 142<sup>nd</sup> Avenue.
- e. Medical Office/Hospitality uses on Parcel 4E (4.5 acres) adjacent to I-25 south of Parcel 4B.
- f. Commercial Mixed Use/Office/Ancillary Retail uses on Parcel 4F (7.6 acres) south of Parcel C.

Location

The site is located at the southwest corner of I-25 and West 144<sup>th</sup> Avenue, extending westward to Huron Street and southward approximately 2600 feet from W. 144<sup>th</sup> Avenue. (See attached vicinity map.)

Comprehensive Land Use Plan Amendment

The Westminster Municipal Code requires the owner of the property requesting an amendment to the Comprehensive Land Use Plan (CLUP) to prove the amendment is in the public good and in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. The proposed amendment must, “Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed.” The northern portion of the site is currently designated “District Center” in the CLUP. The southern portion (the Fonay property) must be annexed into the City and assigned a CLUP designation. Since this is a unified development, the annexed land should be the same land use designation, “District Center.”
2. The proposed amendment must, “Be in conformance with the overall purpose, intent, goals, and policies of the Plan.” Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:

**Goal A1** Growth will occur in a manner that balances the pace of development with the City’s ability to provide quality services and capital improvements.

**Policy A1c** Annexation of county enclaves and adjoining lands will be considered on a case-by-case basis, taking into consideration the fiscal, social, and land use factors.

**Goal A2** Retain areas for commercial and industrial developments as significant revenue or employment generators on the remaining developable land.

**Policy A2a** Residential development will be limited to that needed to support commercial and industrial areas, so as to protect areas for future economic development opportunities. An exception to this general policy would be the allowance of higher density housing in “Transit Oriented Developments,” “Traditional Mixed-Used Neighborhoods,” and City supported redevelopment areas.

**Policy A2b** The majority of the existing vacant land in the City will be reserved for non-residential or mixed-use development in order to achieve a higher jobs per capita mix within the City with an emphasis on primary employment.

**Goal C4** Higher density housing should be in “Transit Oriented Developments,” “Traditional Mixed-Use Development Neighborhoods,” or in “District Centers,” adjacent to existing transit facilities where high density residential uses are appropriate.

- Policy C4c*** Higher density housing should be concentrated in “Transit Oriented Developments,” “Traditional Mixed-Use Development Neighborhoods,” or in “District Centers,” adjacent to existing or planned transit facilities where high density residential uses are appropriate.
- Goal D1*** Preserve, maintain, and improve a variety of shopping facilities offering all necessary goods and services to community residents and businesses.
- Policy D1a*** Necessary goods and services will continue to be made available within the City.
- Policy D1b*** Emphasis will be placed on enhancing the quality and diversity of retail and office commercial developments in a manner that makes a positive contribution to the City’s image and business environment.
- Goal E1*** Increase employment opportunities through the development of easily accessible, well-designed and planned light industrial, office, research, and other employment centers.
- Policy E1a*** Continue programs to retain and attract new businesses and plan for sufficient strategically located land for new employment centers.
- Goal 12*** Continue enhancements and improvements of transportation facilities within District Centers and Traditional Mixed-Use Neighborhood developments.
- Policy 12a*** Enhance vehicular access and capacity for the roadways serving all of Westminster’s District Centers.

Based upon these goals and policies, staff has found this proposed amendment to be in conformance with the overall purpose, intent, goals, and policies of the Plan.

3. The proposed amendment must, “Be compatible with existing and surrounding uses.” The proposed mixed use development will be compatible with the existing “Orchard” development north of 144<sup>th</sup> (a regional shopping center with an office and residential component) and the developing commercial development to the south (Lowe’s and Wal-Mart and other retail uses.) The proposed development is enhanced by its proximity to the 144<sup>th</sup> Avenue/I-25 interchange.
4. The proposal must “Not result in detrimental impacts to the City’s existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City.” The existing and proposed infrastructure is adequate to accommodate the proposed development. The existing water and sewer lines are adequately sized. The proposed Orchard Parkway running north/south through the middle of the development will be the primary access to the majority of the development and relieve traffic along Huron Street. The proposed McKay Lake outfall channel will convey the stormwater drainage through the property and the required detention will be provided on-site and on the Foster property to the south.

Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least 30 days prior to City Council public hearings. Notice was published in the Westminster Window on January 31, 2008.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Three signs were posted on the property on February 1, 2008.

- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 300 feet of the subject property. The applicant has provided the Planning Manager with a certification that the required notices were mailed on January 31, 2008. State Statute requires the notice of an annexation hearing to be published four times, with the first publication at least 30 days before the hearing. Notice of the February 25, 2008 annexation hearing was published on, January 31, February 7, February 14, and February 21, 2008. Notice of the continued hearing on March 17, 2008 will be published on February 14, February 21, February 28, and March 6, 2008.

Applicant/Property Owner

Applicant representing all property owners:

Fred Cooke  
 Biltmore Development, Inc.  
 11854 Bradburn Boulevard  
 Westminster, Colorado 80031

Surrounding Land Use and Comprehensive Land Use Plan Designations

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: The Orchard	PUD	District Center	Retail
West: Huntington Trails, Lexington	PUD		Single Family Residential
East: I-25 Right-of-Way City of Thornton		None	Vacant
South: Foster Property	PUD	District Center	Vacant

Site Plan Information

The following site plan information explains how the proposal complies with the City’s land development regulations and guidelines and the criteria contained in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code.

- **Traffic and Transportation:** There are six proposed and existing access points to the site. Orchard Parkway traverses the site in a north/south direction extending from 144<sup>th</sup> Avenue to the Foster property to the south and eventually to 136<sup>th</sup> Avenue. There will be a second access point off of 144<sup>th</sup> Avenue opposite Delaware Street. Both Orchard Parkway and Delaware Street are signalized. Along Huron Street from north to south, there is a three quarter turn access point approximately 600 feet south of 144<sup>th</sup> Avenue. A proposed full turn signalized access point occurs at 142<sup>nd</sup> Avenue, opposite Huntington Trails Parkway to the east. A right-in/right-out movement to Huron Street is proposed at 141<sup>st</sup> Avenue. Approximately 350 feet south of the property is a proposed full turn, signalized intersection opposite Lexington Avenue. This access will require an amendment to the Foster property PDP.
- **Site Design:** Orchard Parkway will serve as the primary access to most of the development. The parkway right-of-way will range from 112 feet to 167 feet and will be extensively landscaped. Orchard Parkway will be located approximately 800 feet east of Huron Street. The site is comprised of six land use parcels. Proceeding down Orchard Parkway from north to south the land use parcels are described as follows:
  - Parcel 4A – is located on the west side of Orchard Parkway extending eastward to Huron Street between 144<sup>th</sup> Avenue and 142<sup>nd</sup> Avenue. This 17.4 acre parcel is primarily intended for retail commercial uses but may include an office and hotel component.
  - Parcel 4B – is the largest parcel consisting of 33.4 acres and is located on the east side of Orchard Parkway extending to I-25. This parcel is planned to be developed with medical, medical office, and general office uses. Centura Hospital is the announced purchaser of Parcel 4B.
  - Parcel 4C – is located directly south of Parcel 4B and is planned for additional medical office uses, and may contain ancillary retail up to 35% of the total building floor area. Parcel 4C is 16.8 acres in area.



Parcel 4D – is located between Huron Street and Orchard Parkway directly south of 142<sup>nd</sup> Avenue. This parcel is subdivided into two sub-parcels 4D (north) and 4D (south) separated by 141<sup>st</sup> Avenue. The sub-parcels are 12.1 acres and 7.4 acres respectively. These parcels are intended to be mixed use and may contain retail, office, hospitality and high density residential uses. Residential uses must be part of a mixed use development.

Parcel 4E – is located south of Parcel 4B and is also planned for medical office uses, but may also be developed with hotel uses. 4E is 4.6 acres in area.

The remaining parcels 4F-J are for right-of-way, detention, canal or other non-development purposes and will be described below.

- Landscape Design: the specific design of the public and private landscaping will be part of the Official Development Plan(s) for the area. Efforts will be made to preserve the existing mature trees along Huron Street.
- Public Land Dedication/School Land Dedication: It is not known at this point how many residences will be developed for this project. Once this is determined at the ODP stage, cash-in-lieu for public land and school land will be due. The drainage channels and detention pond will be dedicated to the City, but are not part of the required Public Land Dedication. (Parcel 4G). These areas will be maintained by the abutting property owners or the metropolitan district proposed to be formed for the areas.
- Parks/Trails/Open Space: Ten feet wide concrete trails will be provided along the McKay Lake outfall drainage channel, along I-25 and the Bull Canal (that will be realigned as shown on the plans).
- Architecture/Building Materials: General architectural guidelines are included in the PDP. The overall architectural theme may be described as “Colorado Contemporary” typically characterized by the use of:
  - Low sloped roofs with overhanging eaves
  - Overlapping horizontal forms with vertical mass elements
  - Local materials such as brick, stone and wood
  - Shading devices such as canopies, trellises, and awnings
  - A background palette of earth tones
  - Tower element

More detailed architectural guidelines will be required with the ODP.

### Signage

The signage is to be designed to complement the architectural theme of the overall center and to provide clear direction to benefit both shoppers and merchants.

There is a hierarchy of signage letter sizes established to be appropriate to the size of the user. All signs are to be fabricated from a sampling of methods harmonious to the design of the architecture. In addition to tenant user identification signs, monument signs will be provided along Interstate 25, along 144<sup>th</sup> Avenue and along North Huron Street. Also, there will be project identity signage at major intersections entering the project, as well as, directional signs throughout the site. There will be a major sign element at 144<sup>th</sup> Avenue and Huron Street.

A comprehensive sign program will be developed and submitted with the ODP. Signage will meet the City of Westminster signage standards unless specifically approved otherwise on the ODP.

### Lighting

Light fixtures and supports will be of a consistent design and color. A photometric lighting study will be required with the ODP to assure no off-site glare will occur.

### Referral Agency Responses

Copies of the Annexation Impact Report were sent to Adams County Commissioners. Referrals for the PDP were sent to Xcel Energy, Comcast, Qwest and the Colorado Department of Transportation. No responses have been received to date.

Service Commitment Categories

Service Commitments shall be allocated to this project from Category C for non-residential developments. The exact number of commitments will be calculated by staff at the time of building permit approval. If residential uses are proposed, a PDP amendment will need to be approved and Service Commitments awarded through the City's annual competition in the Traditional Mixed Use Neighborhood Development Category.

Neighborhood Meeting and Public Comments

A neighborhood meeting was held on January 30, 2008. Eleven individuals attended the meeting. Those in attendance expressed support of emergency medical facilities for the neighborhood and expressed a desire for buffering and landscaping on the project similar to that found north along Huron Street next to The Orchard Town Center development. One Thornton resident voiced concern over the quantity of storm water piped under I-25.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments:

- Fonay Vicinity Map
- Annexation Petition
- Findings Resolution
- Annexation Ordinance
- Comprehensive Land Use Plan (CLUP) Ordinance
- Comprehensive Land Use Plan (CLUP) Amendment Map
- Zoning Ordinance
- Fonay Zoning Map
- Criteria and Standards for Land Use Applications

RESOLUTION

RESOLUTION NO. **15**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

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**A RESOLUTION PURSUANT TO SECTION 31-12-110, C.R.S., SETTING FORTH THE FINDINGS OF FACT AND CONCLUSION OF CITY COUNCIL WITH REGARD TO THE PROPOSED ANNEXATION OF CONTIGUOUS UNINCORPORATED TERRITORY IN SECTION 22, TOWNSHIP 1 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, ALSO KNOWN AS THE FONAY PROPERTY**

WHEREAS, pursuant to the laws of the State of Colorado, there has been filed with the City Clerk petitions (the "Petition") for the annexation of the property described in said Petition; and

WHEREAS, City Council has previously adopted Resolution No. 1 finding the Petition to be in substantial compliance with the provisions of section 31-12-107(1), C.R.S., and;

WHEREAS, City Council has held a hearing concerning the proposed annexation as required by sections 31-12-108 and -109, C.R.S.; and

WHEREAS, having completed the required hearing, the City Council wishes to set forth its findings of fact and conclusion regarding the proposed annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER THAT:

1. The City Council finds:
  - a. Not less than 1/6 of the perimeters of each of the areas proposed to be annexed serially are contiguous with the City of Westminster;
  - b. A community of interest exists between the area proposed to be annexed and the City;
  - c. The area is urban or will be urbanized in the near future; and
  - d. The area is integrated with or is capable of being integrated with the City.
2. The City Council further finds:
  - a. With respect to the boundaries of the territory proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof, except to the extent such tracts or parcels are separated by dedicated street, road, or other public way; and
  - b. With regard to the boundaries of the area proposed to be annexed, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the previous year), has been included in the area being proposed for annexation without the written consent of the owners thereof, except to the extent such tract of land is situated entirely within the outer boundaries of the City immediately prior to the annexation of said property.
3. The City Council further finds:
  - a. That no annexation proceedings concerning the property proposed to be annexed by the City has been commenced by another municipality;
  - b. That the annexation will not result in the detachment of any area from a school district;
  - c. That the annexation will not result in the extension of the City's boundary more than three (3) miles in any direction;
  - d. That the City of Westminster has in place a plan for the area proposed to be annexed; and
  - e. That in establishing the boundaries of the area to be annexed, the entire width of any street or alley is included within the area annexed.

4. The City Council further finds that an election is not required and no additional terms or conditions are to be imposed upon the area to be annexed.

5. The City Council concludes that the City may proceed to annex the area proposed to be annexed by ordinance pursuant to section 31-12-111, C.R.S.

PASSED AND ADOPTED this 17th day of March, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEAGAL FORM:

\_\_\_\_\_  
City Attorney's Office

Fonay Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **8**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN EMERGENCY ORDINANCE ANNEXING A PARCEL OF LAND LOCATED IN  
SECTION 22, TOWNSHIP 1 SOUTH, RANGE 68 WEST, 6TH P.M., ADAMS COUNTY,  
COLORADO**

WHEREAS, pursuant to the laws of the State of Colorado, there was presented to the Council of the City of Westminster a petition for annexation to the City of Westminster by the owner of more than 50 percent of the hereinafter-described contiguous, unincorporated area, exclusive of public streets and alleys, being in the County of Adams, State of Colorado; and

WHEREAS, City Council has held the required annexation hearing in conformance with all statutory requirements; and

WHEREAS, City Council has heretofore adopted Resolution No. 1, Series of 2008 making certain findings of fact and conclusions regarding the proposed annexation, as required by Section 31-12-110, C.R.S., and now finds that the property proposed for annexation under the Annexation Petition may be annexed by ordinance at this time; and

WHEREAS, the City Council has satisfied itself that the proposed annexation conforms with the Comprehensive Land Use Plan of the City of Westminster.

NOW, THEREFORE, the City of Westminster ordains:

Section 1. That the annexation is hereby accomplished by and to the City of Westminster, State of Colorado, of the following described contiguous unincorporated territory situated, lying and being in the County of Jefferson, State of Colorado, to wit:

Fonay Annexation

A parcel of land located in the south one-half of the northwest quarter of Section 22, Township 1 South, Range 68 West of the 6<sup>th</sup> P.M., County of Adams, State of Colorado, being more particularly described as follows:

Commencing at the west quarter of said Section 22; Thence South 89°57'18" East, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 30.00 feet to the west line of North Huron Street right of way as described in Reception No. 20050620000646750 said point and being the point of beginning;

Thence North 00°42'47" West, along the west line of North Huron Street right of way described in Reception No. 20050620000646750 and Reception No. 20041025001072230; a distance of 1322.47 feet to the north line of the south one-half of the northwest quarter of said Section 22;

Thence South 89°56'14" East, along the north line of the south one-half of the northwest quarter of said Section 22, a distance of 2391.55 feet to the west line of a right of way described in Book 473, Page 187;

Thence South 00°45'07" East, along said west right of way line, along a line parallel with and 200.02 feet west of the east line of said south one-half of the northwest quarter of said Section 22, a distance of 1321.75 feet to the south line of the south one-half of the northwest quarter of said Section 22;

Thence North 89°57'18" West, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 2392.44 feet to the point of beginning;

Said annexation parcel contains 72.594 acres, more or less, subject to all easements and encumbrances of record.

Section 2. Because the purchase and sale agreements related to the Orchard Park Place project may be terminated if this annexation is not timely concluded, and because the timely commencement and completion of the Orchard Park Place project will produce significant economic development benefits to the City and its citizens including significant tax revenues and a major medical complex in a currently underserved area of the City, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on March 17, 2008, by an affirmative vote of six of the members of the Council if six or seven members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of four of the members of the Council if four or five members of the Council are present at the meeting at which this ordinance is presented and the signature on this ordinance by the Mayor or the Mayor Pro Tem.

Section 3. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, READ IN FULL AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 17<sup>th</sup> day of March, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

Fonay Annexation

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **9**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE WESTMINSTER  
COMPREHENSIVE LAND USE PLAN**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been submitted to the City for its approval pursuant to W.M.C. §11-4-16(D), by the owner(s) of the properties described below, requesting a change in the land use designations from Adams County A3 to District Center for the Fonay Property located at the southeast corner of Huron Street and the West 142<sup>nd</sup> Street alignment.

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on February 12, 2008, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the owners have met their burden of proving that the requested amendment will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly Policy A1c that states that the City will consider the annexation of enclaves on a case by case basis taking into consideration fiscal, social and land use factors.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the map and text of the Westminster Comprehensive Land Use Plan to change the designation of the property more particularly described as follows:

Fonay Property

A parcel of land located in the south one-half of the northwest quarter of Section 22, Township 1 South, Range 68 West of the 6<sup>th</sup> P.M., County of Adams, State of Colorado, being more particularly described as follows:

Commencing at the west quarter of said Section 22; Thence South 89°57'18" East, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 30.00 feet to the west line of North Huron Street right of way as described in Reception No. 20050620000646750 said point and being the point of beginning;

Thence North 00°42'47" West, along the west line of North Huron Street right of way described in Reception No. 20050620000646750 and Reception No. 20041025001072230; a distance of 1322.47 feet to the north line of the south one-half of the northwest quarter of said Section 22;

Thence South 89°56'14" East, along the north line of the south one-half of the northwest quarter of said Section 22, a distance of 2391.55 feet to the west line of a right of way described in Book 473, Page 187;

Thence South 00°45'07" East, along said west right of way line, along a line parallel with and 200.02 feet west of the east line of said south one-half of the northwest quarter of said Section 22, a distance of 1321.75 feet to the south line of the south one-half of the northwest quarter of said Section 22;

Thence North 89°57'18" West, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 2392.44 feet to the point of beginning;

Said annexation parcel contains 72.594 acres, more or less, subject to all easements and encumbrances of record.

to "District Center", as depicted on the map attached as Exhibit A.

Section 3.      Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4.      This ordinance shall take effect upon its passage after second reading.

Section 5.      The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th of February, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 17th day of March, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **10**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

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**A BILL  
FOR AN ORDINANCE AMENDING THE ZONING OF THE  
FONAY PROPERTY LOCATED AT THE SOUTHEAST CORNER  
OF HURON STREET AND THE WEST 142<sup>ND</sup> AVENUE  
ALIGNMENT, ADAMS COUNTY, COLORADO, FROM ADAMS  
COUNTY A-3 TO PLANNED UNIT DEVELOPMENT**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for the rezoning of the property generally located at the southeast corner of Huron Street and the West 142<sup>nd</sup> Avenue alignment as described below, from the Adams County A-3 zone to the Planned Unit Development (PUD) zone has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.

b. That the notice requirements of W.M.C. §11-5-13 have been met.

c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on February 12, 2008 and has recommended approval of the requested amendment.

d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. § 11-5-14.

e. That based on the evidence produced at the public hearing, a rezoning to the proposed PUD zoning complies with all requirements of City Code, including, but not limited to, the provisions of W.M.C §11-5-14, regarding standards for approval of planned unit developments and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property, described as:

A parcel of land located in the south one-half of the northwest quarter of Section 22, Township 1 South, Range 68 West of the 6<sup>th</sup> P.M., County of Adams, State of Colorado, being more particularly described as follows:

Commencing at the west quarter of said Section 22; Thence South 89°57'18" East, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 30.00 feet to the west line of North Huron Street right of way as described in Reception No. 20050620000646750 said point and being the point of beginning;

Thence North 00°42'47" West, along the west line of North Huron Street right of way described in Reception No. 20050620000646750 and Reception No. 20041025001072230; a distance of 1322.47 feet to the north line of the south one-half of the northwest quarter of said Section 22;

Thence South 89°56'14" East, along the north line of the south one-half of the northwest quarter of said Section 22, a distance of 2391.55 feet to the west line of a right of way described in Book 473, Page 187;

Thence South 00°45'07" East, along said west right of way line, along a line parallel with and 200.02 feet west of the east line of said south one-half of the northwest quarter of said Section 22, a distance of 1321.75 feet to the south line of the south one-half of the northwest quarter of said Section 22;

Thence North 89°57'18" West, along the south line of the south one-half of the northwest quarter of said Section 22, a distance of 2392.44 feet to the point of beginning;

Said annexation parcel contains 72.594 acres, more or less, subject to all easements and encumbrances of record.

From the Adams County A-3 zoning district to the PUD zoning district, as depicted on the map marked Exhibit A attached hereto.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25th day of February, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 17th day of March, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

## Criteria and Standards for Land Use Applications

### *Comprehensive Land Use Plan Amendments*

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

### *Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)*

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.

9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

***Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)***

11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

***City Initiated Rezoning***

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

***Official Development Plan (ODP) Application***

11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.

6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

RESOLUTION

RESOLUTION NO. 8

INTRODUCED BY COUNCILLORS

SERIES OF 2008

WHEREAS, there has been filed with the City Clerk of the City of Westminster, a petition, copies of which are attached and incorporated herein by reference, for the annexation of certain territory therein-described to the City;

WHEREAS, the City Council has been presented evidence by the City Staff that the petition submitted by George Stroberg and accompanying map are in substantial compliance with Sections 31-12-107 (1), Colorado Revised Statutes, as amended;

NOW, THEREFORE, be it resolved that by City Council of the City of Westminster that:

1. City Council finds the said petition and annexation map to be in substantial compliance with the requirements of Section 31-12-107 (1) C.R.S.,
2. City Council hereby establishes March 31, 2008, 7 p.m. at the Westminster City Council Chambers, 4800 West 92nd Avenue, for the annexation hearing required by Subsection 31-12-108 (1), C.R.S.,
3. City Council hereby orders the City Clerk to give notice of the annexation hearing in accordance with Subsection 31-12-108 (2), C.R.S.

PASSED AND ADOPTED this 11th day of February, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

# Vicinity Map - Fonay Annexation



**ORCHARD LAKES  
ANNEXATION PETITION**

The Fonay Family Limited Partnership, Ltd., The Milton W. Fonay Trust and The Virginia M. Fonay Trust submit this Annexation Petition and Annexation Map in accordance with §§ 31-12-101, et seq., of the Colorado Revised Statutes (the "Municipal Annexation Act of 1965) and the Westminster City Code, Art. 11, Chapter 5, and state as follows:

1. It is desirable and necessary that the area shown on the attached annexation map be annexed into the City of Westminster.
2. The requirements of Sections 31-12-104 and 31-12-105 C.R.S. 1973, as amended, exist or have been met.
3. The signers of this petition comprise the landowners of more than fifty percent of the territory included in the area proposed to be annexed, exclusive of streets and alleys.
4. The undersigned hereby request the City of Westminster to approve the annexation of the area proposed to be annexed.
5. Signatures of landowners:

**Fonay Family Limited Partnership, Ltd.**

BY: *Gary Fonay*  
Gary Fonay, General Partner

**The Milton W. Fonay Trust**

BY: *Milton W. Fonay*  
Milton W. Fonay, Trustee

**The Virginia M. Fonay Trust**

BY: \_\_\_\_\_  
Rhonda Swain, Trustee

6. Mailing address of signers:

Fonay Family Limited Partnership, Ltd.  
306 Jemez  
Hobbs, New Mexico 88240



The Milton W. Fonay Trust  
306 Jemez  
Hobbs, New Mexico 88240

The Virginia M. Fonay Trust  
143 South Great Road  
Lincoln, MA 01773

7. Legal description of land owned by signer:

See Exhibit "A" attached hereto and incorporated herein by this reference.

8. Date of signing:

**Fonay Family Limited Partnership, Ltd.**

Signed by Gary Fonay, as General Partner, on 12/7/07.


**The Milton W. Fonay Trust**

Signed by Milton W. Fonay, as Trustee, on 12/7/07.

**The Virginia M. Fonay Trust**

Signed by Rhonda Swain, as Trustee, on \_\_\_\_\_.

9. Signature of landowner's purchaser, Orchard Lakes, LLC, 11854 Bradburn Blvd. Westminster, CO 80031, under Purchase and Sale Agreement dated October 6, 2005, as amended, and Affidavit of purchaser as Petition Circulator that each signature herein is the signature of the person whose name it purports to be:

**Orchard Lakes, LLC**  
  
By: Frederick G. Cooke, Manager

10. Four copies of the Annexation Map are attached and accompany this Petition.

11. This Annexation Petition is expressly conditioned upon City approval of a Preliminary Development Plan (PDP) for the Annexed Property that is acceptable to the City, the landowner and the landowner's purchaser in accordance with the applicable sections of the City Code, and the Petition may be withdrawn if a mutually acceptable PDP is not approved.

NOTARY VERIFICATION OF SIGNERS:

**1. Gary Fonay, General Partner, FONAY FAMILY LIMITED PARTNERSHIP, LTD.**

STATE OF New Mexico  
COUNTY OF Lea ) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this 7th day of December, 2007, by Gary Fonay as General Partner of Fonay Family Limited Partnership, Ltd. Witness my hand and official seal the date and year first above written.

Ranita Davenport  
Notary Public

112 Walker Hobbs, NM 88240  
Address

SEAL

May 10, 2009  
My commission expires:

**2. Milton W. Fonay, Trustee, MILTON W. FONAY TRUST**

STATE OF New Mexico  
COUNTY OF Lea ) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this 7th day of December, 2007, by Milton W. Fonay as Trustee of Milton W. Fonay Trust. Witness my hand and official seal the date and year first above written.

Ranita Davenport  
Notary Public

112 Walker Hobbs, NM 88240  
Address

SEAL

May 10, 2009  
My commission expires:

2. Rhonda Swain, Trustee, VIRGINIA M. FONAY TRUST

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this \_\_\_ day of \_\_\_\_\_, 2007, by Rhonda Swain, Trustee of Virginia M. Fonay Trust. Witness my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Address

SEAL

\_\_\_\_\_  
My commission expires

3. Frederick G. Cooke, Manager Orchard Lakes, LLC:

STATE OF COLORADO )  
 )  
COUNTY OF Adams ) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this 14<sup>th</sup> day of December, 2007, by Frederick G. Cooke as Manager of Orchard Lakes, LLC. Witness my hand and official seal the date and year first above written.

[Signature]  
Notary Public

My Commission Expires 9/26/2011  
5130 W. 120th Ave.  
Westminster, CO 80020

\_\_\_\_\_  
Address

\_\_\_\_\_  
My commission expires:



SEAL

**ORCHARD LAKES  
ANNEXATION PETITION**

The Fonay Family Limited Partnership, Ltd., The Milton W. Fonay Trust and The Virginia M. Fonay Trust submit this Annexation Petition and Annexation Map in accordance with §§ 31-12-101, et seq., of the Colorado Revised Statutes (the "Municipal Annexation Act of 1965) and the Westminster City Code, Art. 11, Chapter 5, and state as follows:

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BY: \_\_\_\_\_  
Gary Fonay, General Partner

**The Milton W. Fonay Trust**

BY: \_\_\_\_\_  
Milton W. Fonay, Trustee

**The Virginia M. Fonay Trust**

BY: Rhonda Swain, trustee  
Rhonda Swain, Trustee

6. Mailing address of signers:

Fonay Family Limited Partnership, Ltd.  
306 Jemez  
Hobbs, New Mexico 88240

The Milton W. Fonay Trust  
306 Jemez  
Hobbs, New Mexico 88240

The Virginia M. Fonay Trust  
143 South Great Road  
Lincoln , MA 01773

7. Legal description of land owned by signer:

See Exhibit "A" attached hereto and incorporated herein by this reference.

8. Date of signing:

**Fonay Family Limited Partnership, Ltd.**

Signed by Gary Fonay, as General Partner, on \_\_\_\_\_.

**The Milton W. Fonay Trust**

Signed by Milton W. Fonay, as Trustee, on \_\_\_\_\_.

**The Virginia M. Fonay Trust**

Signed by Rhonda Swain, as Trustee, on December 7, 2007

9. Signature of landowner's purchaser, Orchard Lakes, LLC, 11854 Bradburn Blvd. Westminster, CO 80031, under Purchase and Sale Agreement dated October 6, 2005, as amended, and Affidavit of purchaser as Petition Circulator that each signature herein is the signature of the person whose name it purports to be:

**Orchard Lakes, LLC**

\_\_\_\_\_  
By: Frederick G. Cooke, Manager

10. Four copies of the Annexation Map are attached and accompany this Petition.

11. This Annexation Petition is expressly conditioned upon City approval of a Preliminary Development Plan (PDP) for the Annexed Property that is acceptable to the City, the landowner and the landowner's purchaser in accordance with the applicable sections of the City Code, and the Petition may be withdrawn if a mutually acceptable PDP is not approved.

2. Rhonda Swain, Trustee, VIRGINIA M. FONAY TRUST

STATE OF Massachusetts )  
 )  
COUNTY OF Middlesex ) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this 7 day of December, 2007, by Rhonda Swain, Trustee of Virginia M. Fonay Trust. Witness my hand and official seal the date and year first above written.

Mary Colt Navins  
Notary Public

152 Lincoln Rd, Lincoln Ma 01773  
Address  
March 13, 2009  
My commission expires



MARY COLT NAVINS  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
March 13, 2009

3. Frederick G. Cooke, Manager Orchard Lakes, LLC:

STATE OF COLORADO )  
 )  
COUNTY OF \_\_\_\_\_ ) ss.

The foregoing Petition of Annexation was executed and sworn to under oath before me this \_\_\_ day of \_\_\_\_\_, 2007, by Frederick G. Cooke as Manager of Orchard Lakes, LLC. Witness my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary Public

SEAL

\_\_\_\_\_  
Address

\_\_\_\_\_  
My commission expires:

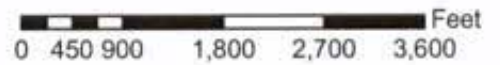
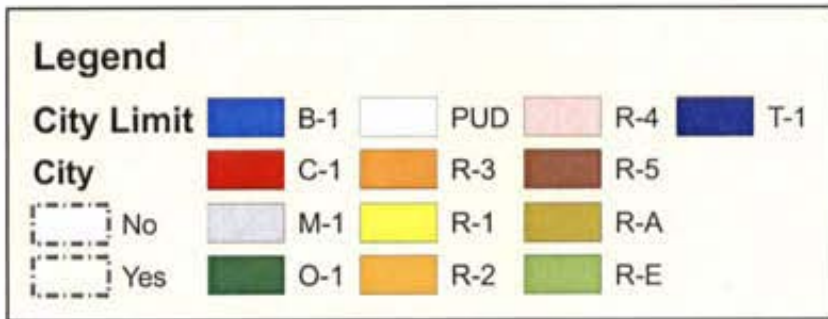
# Fonay Annexation Existing CLUP - Not in City Limits



# Fonay Annexation Proposed CLUP - District Center



# Fonay Annexation Existing Zoning - Adams County A-3



# Fonay Annexation Proposed Zoning - PUD







**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Presentation of Employee Service Awards

**Prepared By:** Debbie Mitchell, Human Resources Manager  
Dee Martin, Human Resources Administrator

**Recommended City Council Action**

Present service pins and certificates of appreciation to employees celebrating 20, 25, 30 and 35 years of service with the City, and provide special recognition to the City's 25-year employees with the presentation of a \$2,500 bonus.

**Summary Statement**

- City Council is requested to present service pins and certificates of appreciation to those employees who are celebrating their 20<sup>th</sup>, 25<sup>th</sup>, 30<sup>th</sup>, and 35<sup>th</sup> anniversaries of employment with the City.
- In keeping with the City's policy of recognition for employees who complete increments of five years of employment with the City, and City Council recognition of employees with 20 years or more of service, the presentation of City service pins and certificates of appreciation has been scheduled for Monday night's Council meeting.
- In 1986, City Council adopted a resolution to award individuals who have given 25 years of service to the City with a \$2,500 bonus to show appreciation for such a commitment. Under the program, employees receive \$100 for each year of service, in the aggregate, following the anniversary of their 25th year of employment. The program recognizes the dedicated service of those individuals who have spent most, if not all, of their careers with the City.
- The group for first quarter 2008 was split with 30 and 35 years of service employees celebrating their recognition on March 17<sup>th</sup>. There are three employees celebrating 25 years of service, and they will receive a check for \$2,500, less income tax withholding following their 25<sup>th</sup> anniversary date.
  - Mayor McNally will present the 25-year certificate
  - Councillor Major will present the 20-year certificates

**Expenditure Required:** \$ 7,500

**Source of Funds:** General Fund – Community Development \$2,500  
– Fire Department \$2,500  
– Police Department \$2,500

**Policy Issue**

None identified

**Alternative**

None identified

**Background Information**

The following 20-year employees will be presented with a certificate and service pin:

Kate Amack	Parks, Recreation & Libraries	Recreation Supervisor / MAC Center
Vicky Bunsen	Community Development	Comm. Dev. Program Coordinator
E. Rusty Caldwell	Parks, Recreation & Libraries	Crewleader
John Kasza	Parks, Recreation & Libraries	Operations Coordinator
Phil Paquet	Police Department	Sergeant
Karen Wetzstein	Parks, Recreation & Libraries	Guest Relations Clerk II
Robert G. Wood	Community Development	Engineering Construction Inspector

The following 25-year employees will be presented with a certificate, service pin and check for \$2,500, minus amounts withheld for Federal and State income taxes after their anniversary date:

Dave Leiker	Fire Department	Fire Captain
Chris Pardo	Police Department	Senior Criminalist
Bob VanBriesen	Community Development	Engineering Construction Engineer

On February 27, 2008, the City Manager will host an employee awards luncheon at which time six employees will receive their 15-year service pin, two employees will receive their 10-year service pin, and six employees will receive their 5-year service pin, while recognition will also be given to those celebrating their 20<sup>th</sup>, 25<sup>th</sup>, 30<sup>th</sup> and 35<sup>th</sup> anniversary. This is the first luncheon for 2008 to recognize and honor City employees for their service to the public.

The aggregate City service represented by this group of employees being recognized by Council on February 25th is 215 years of City service. The City can certainly be proud of the tenure of each of these individuals and of their continued dedication to City employment in serving Westminster citizens. Biographies of each individual being recognized are attached.

The recognition of employee's years of service addresses Council's Strategic Plan goal of Financially Sustainable City Government as part of the overall recognition program developed to encourage and recognize employee commitment to the organization. Recognition efforts have long been recognized as an important management practice in organizations striving to develop loyalty, ownership and effectiveness in their valuable employee resource.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment



WESTMINSTER  
COLORADO

Agenda Memorandum

City Council Meeting  
February 25, 2008



**SUBJECT:** Financial Report for January 2008  
**Prepared By:** Tammy Hitchens, Finance Director

**Recommended City Council Action**

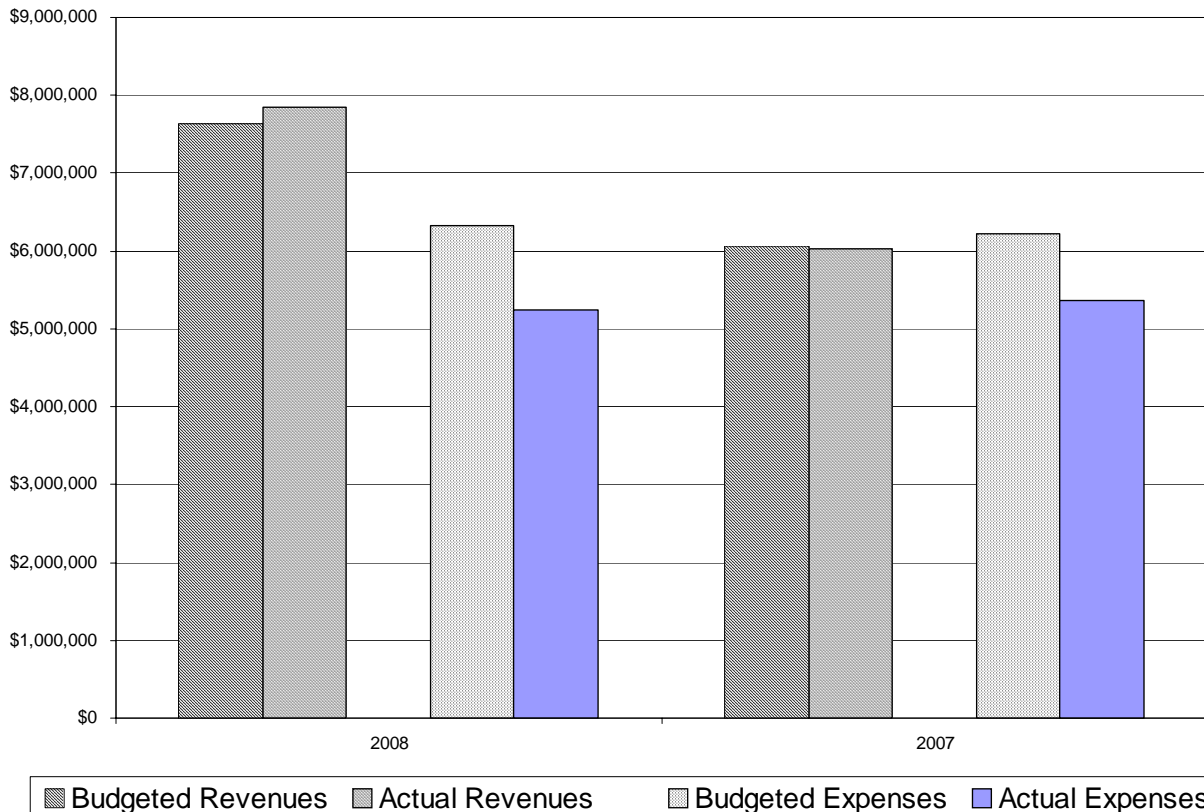
Accept the Financial Report for January as presented.

**Summary Statement**

City Council is requested to review and accept the attached monthly financial statement. The Shopping Center Report is also attached. Unless otherwise indicated, “budget” refers to the pro-rated budget. Revenues also include carryover where applicable. The revenues are pro-rated based on 10-year historical averages. Expenses are also pro-rated based on 5-year historical averages.

The General Fund revenues and carryover exceed expenditures by \$2,590,000. The following graph represents Budget vs. Actual for 2007 – 2008. Items to note on the attached statements are the positive variance in the licenses and permits. This reflects the commercial building permits for the Orchard. Public Works and Utilities expenses are unusually low due to accrual adjustments made for year-end.

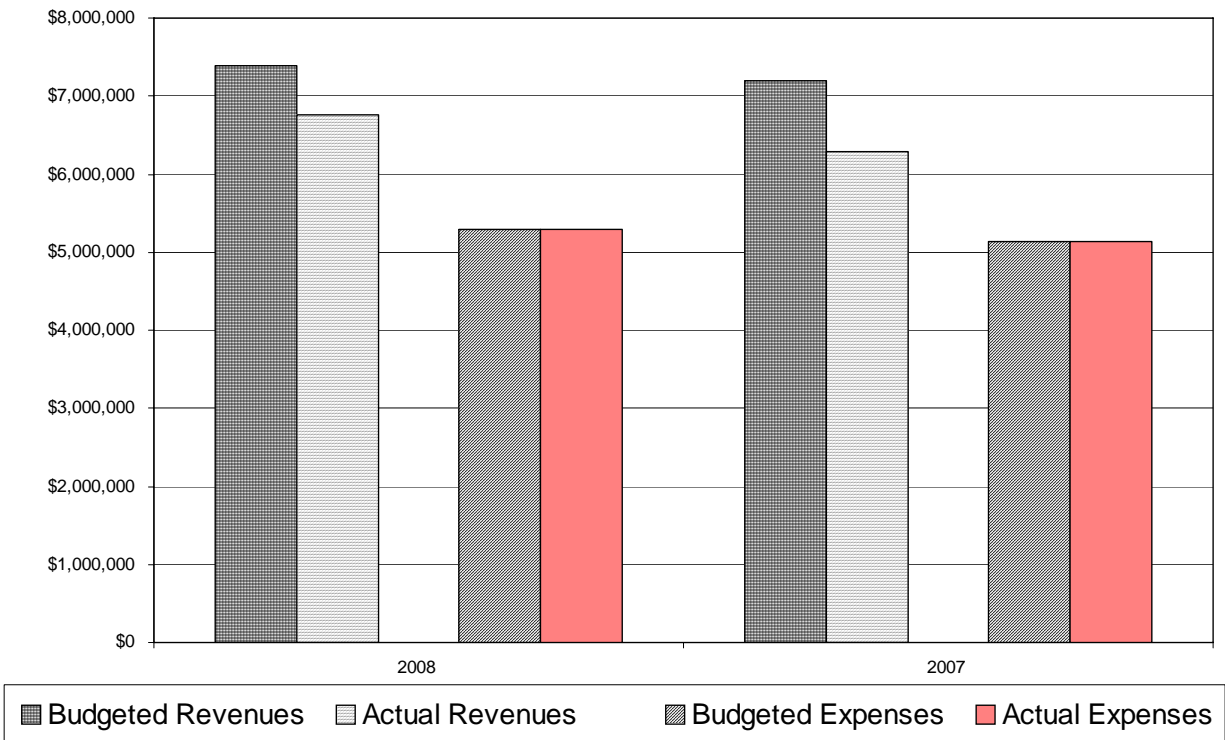
**General Fund  
Budget vs Actual**



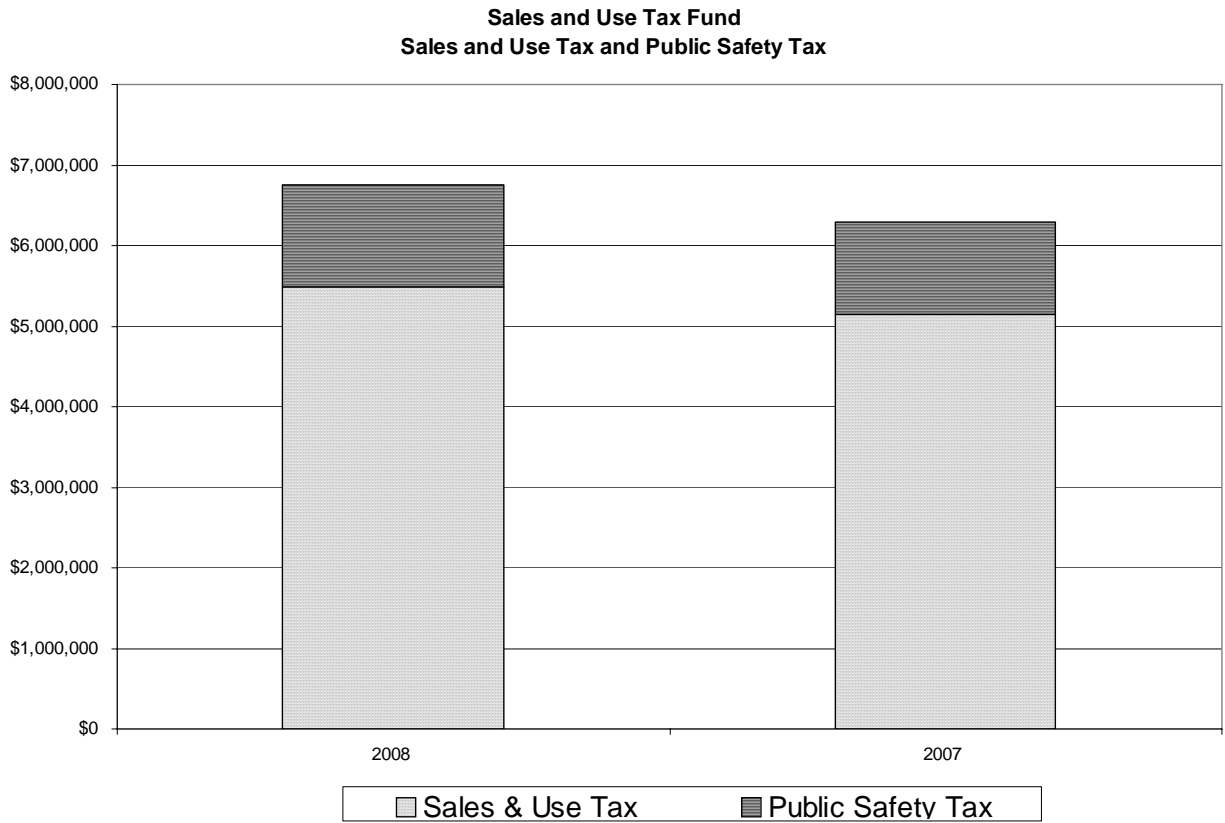
The Sales and Use Tax Fund's revenues and carryover exceed expenditures by \$1,465,000

- On a year-to-date cash basis, sales & use tax returns are up 5.9% over 2007. (2007 was unusually low due to the holiday blizzards.)
- On a year-to-date basis, across the top 25 shopping centers, total sales & use tax receipts are up 6.5% from the prior year. This includes Urban Renewal Area money that is not available for General Fund use. Without Urban Renewal money, total sales and use tax receipts are down 1.5%.
- The top 50 Sales Taxpayers, who represent about 63% of all collections, were up 0.7% after adjusting for Urban Renewal Area money that is not available for General Fund use.
- The Westminster Mall is down 11% on a year-to-date basis.
- Building Use Tax is up 49.3% year-to-date over 2007.

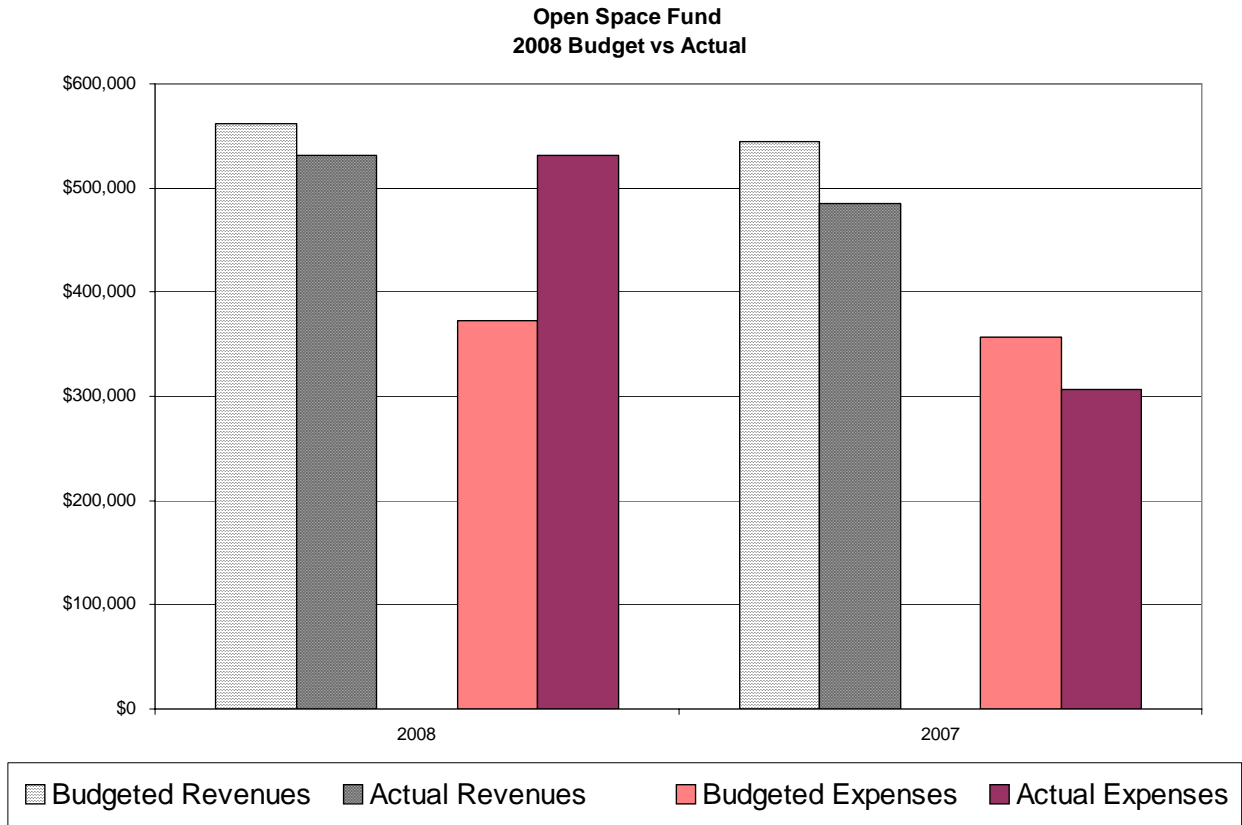
**Sales & Use Tax Fund  
Budget vs Actual**



The graph below reflects the contribution of the Public Safety Tax to the overall Sales and Use Tax revenue.

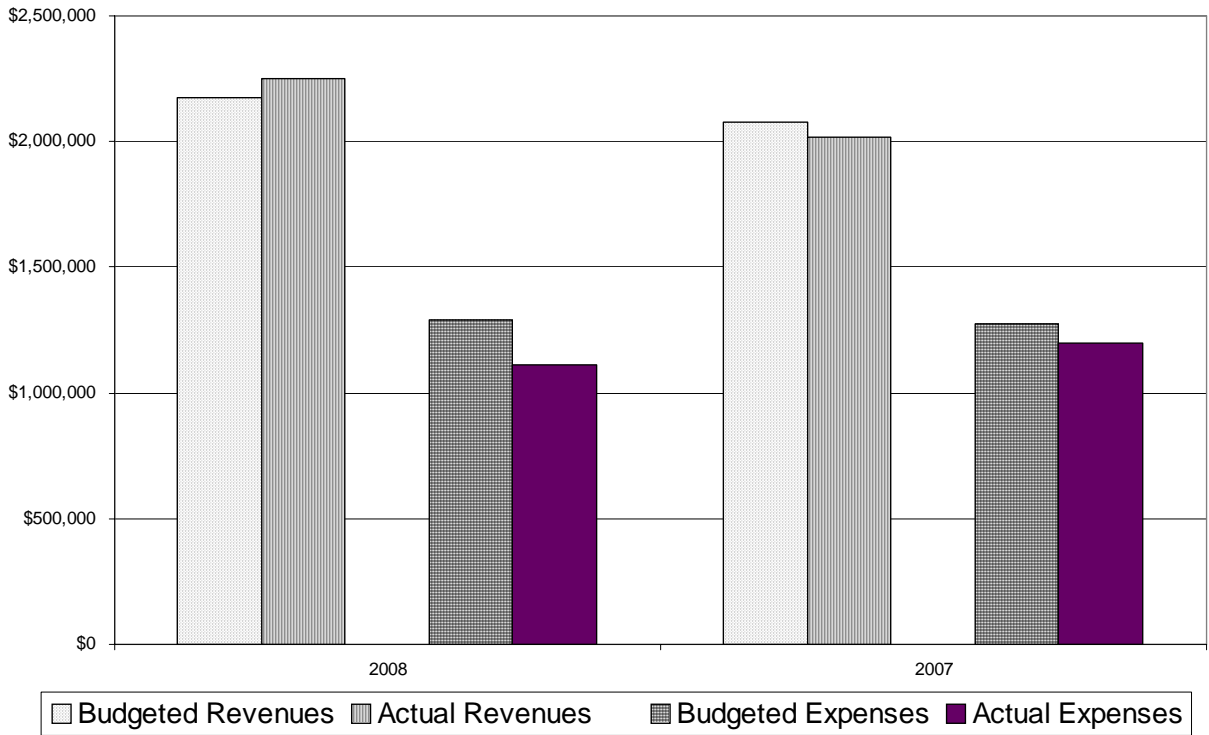


The Open Space Fund revenues exceed expenditures by \$1,000. 2008 expenditures reflect payments to WEDA for the Walnut Creek Open Space.



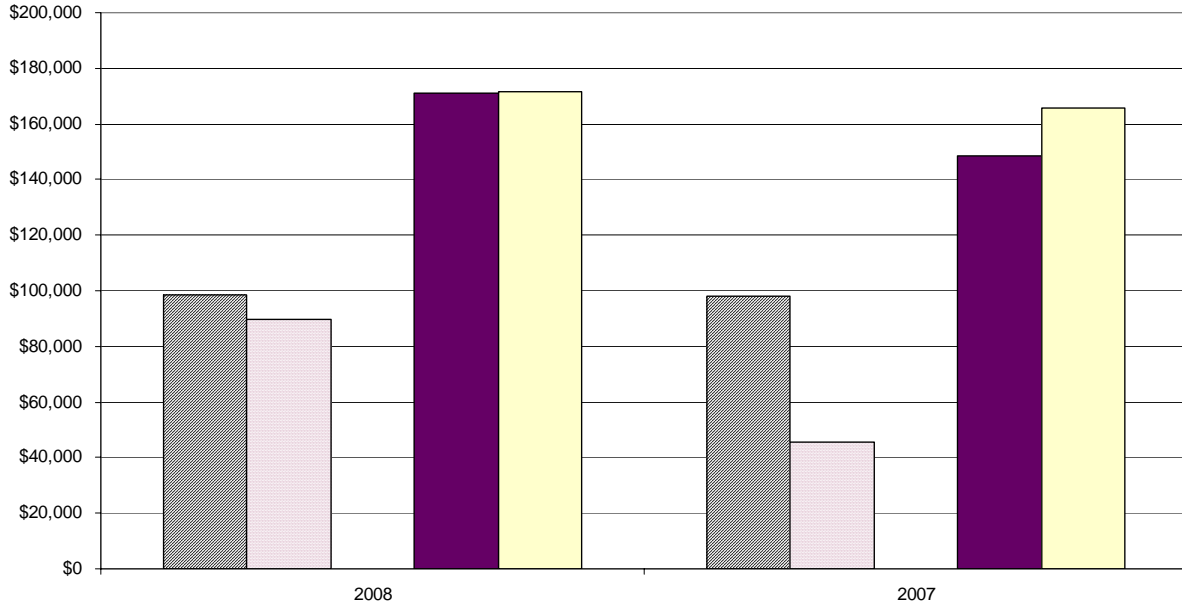
The combined Water & Wastewater Funds' revenues and carryover exceed expenses by \$2,407,000. \$20,810,000 is budgeted for capital projects and reserves.

**Combined Water and Wastewater Funds  
2008 Operating Budget vs Actual**



The combined Golf Course Funds' expenditures exceed revenues by \$82,000.

**Golf Course Enterprise  
Budget vs Actual**



▨ Budgeted Revenues    □ Actual Revenues    □ Budgeted Expenses    □ Actual Expenses



**Policy Issue**

A monthly review of the City’s financial position is the standard City Council practice; the City Charter requires the City Manager to report to City Council on a quarterly basis.

**Alternative**

Conduct a quarterly review. This is not recommended, as the City’s budget and financial position are large and complex, warranting a monthly review by the City Council.

**Background Information**

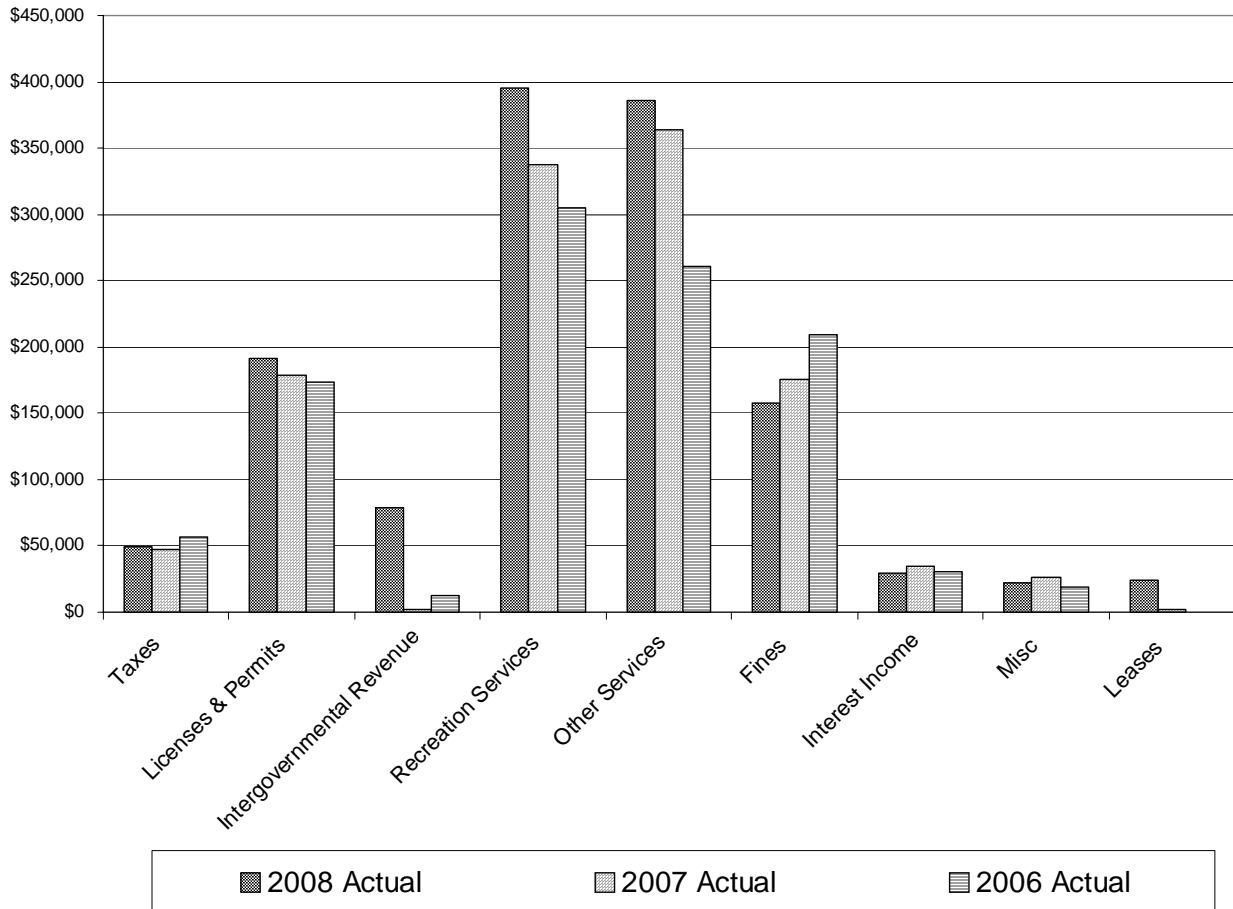
This section includes a discussion of highlights of each fund presented.

**General Fund**

This fund reflects the results of the City’s operating departments: Police, Fire, Public Works (Streets, etc.), Parks Recreation and Libraries, Community Development, and the internal service functions; City Manager, City Attorney, Finance, and General Services.

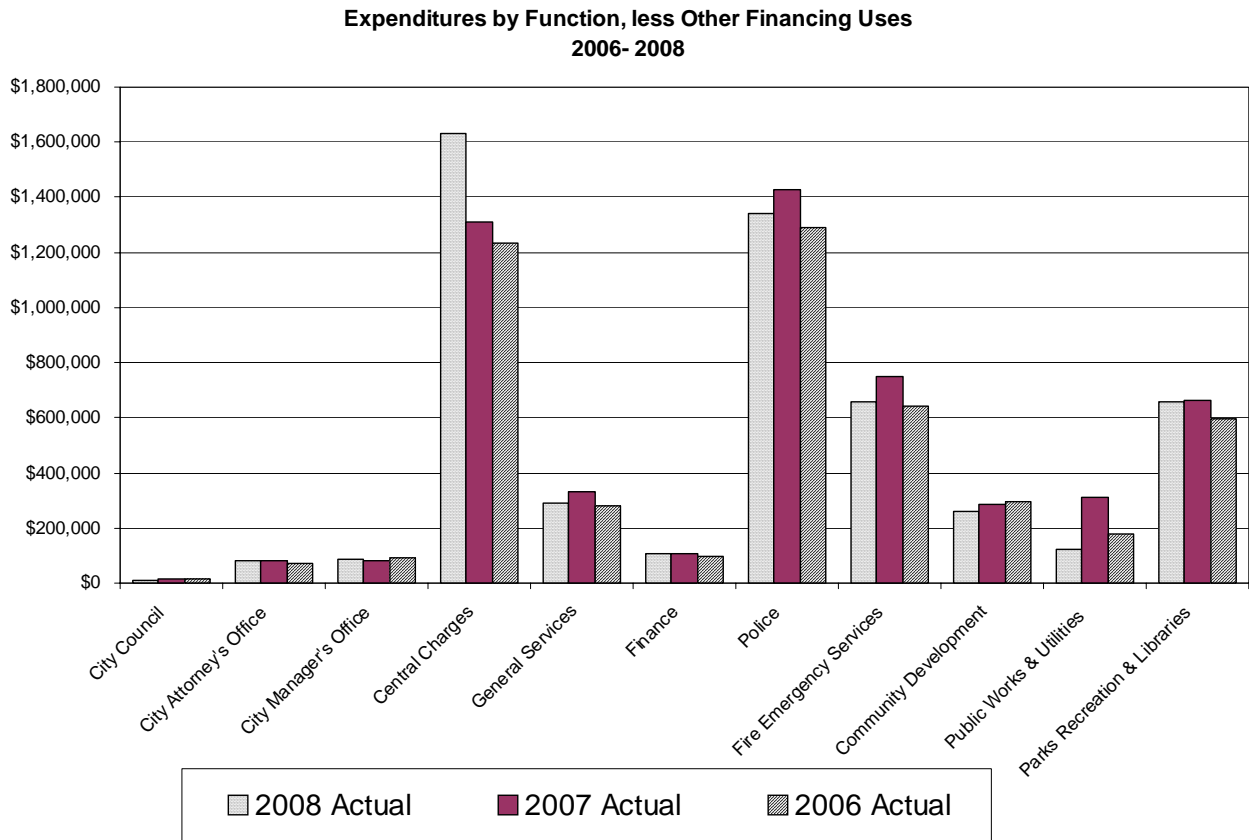
The following chart represents the trend in actual revenues from 2006 – 2008 year-to-date.

**General Fund Revenues without Transfers, Carryover, and Other Financing Sources  
2006 - 2008**



Recreation Services reflects revenues from the Sports Center.

The following chart identifies where the City is focusing its resources. The chart shows year-to-date spending for 2006 –2008.

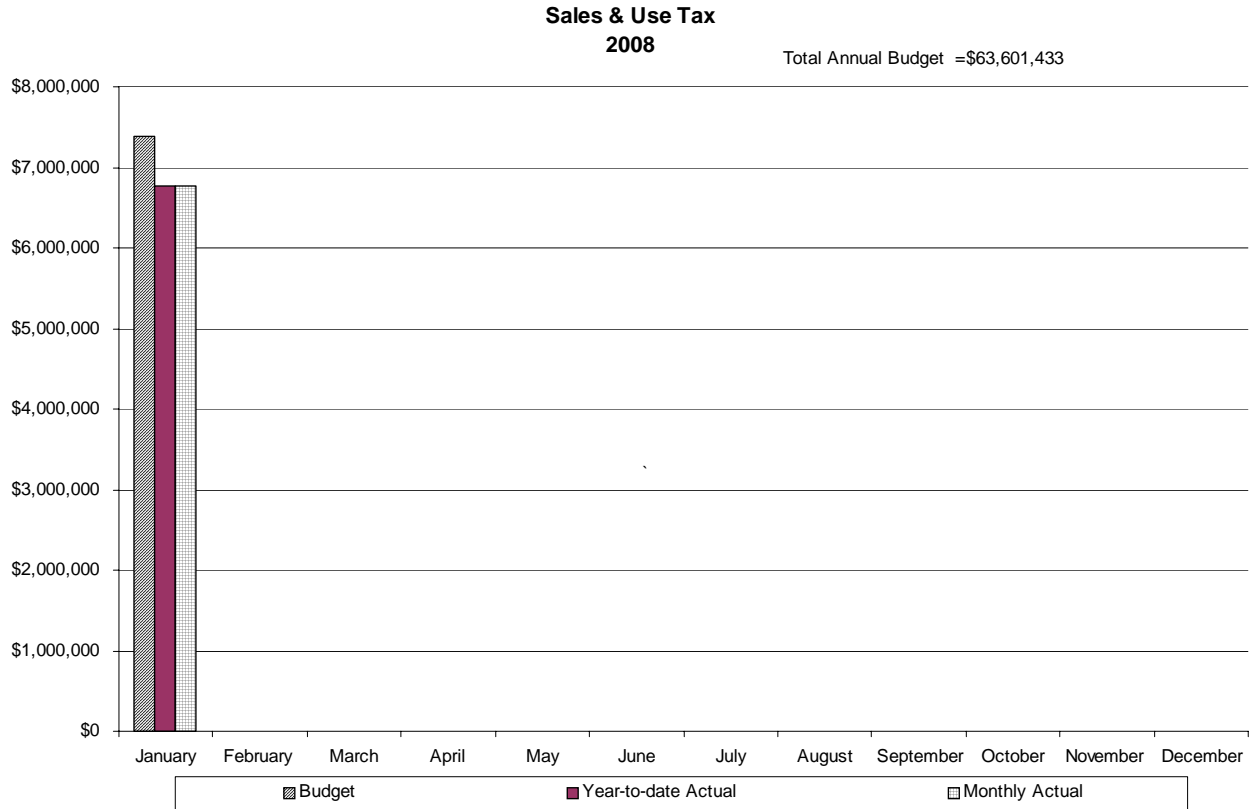


Changes in Central Charges reflect all of Human Services Funding being paid out of the General Fund rather than part of the money coming from the CDBG fund. In addition, there was a timing difference when the CML dues were paid and finally, increased transfers to the General Capital Improvement Fund.

**Sales and Use Tax Funds (Sales & Use Tax Fund and Open Space Sales & Use Tax Fund)**

These funds are the repositories for the 3.85% City Sales & Use Tax for the City. The Sales & Use Tax Fund provides monies for the General Fund, the Capital Project Fund and the Debt Service Fund. The Open Space Sales & Use Tax Fund revenues are pledged to meet debt service on the POST bonds, buy open space, and make park improvements on a pay-as-you-go basis. The Public Safety Tax (PST) is a 0.6% sales and use tax to be used to fund public safety-related expenses.

This chart indicates how the City's Sales and Use Tax revenues are being collected on a monthly basis. This chart does not include Open Space Sales & Use Tax.

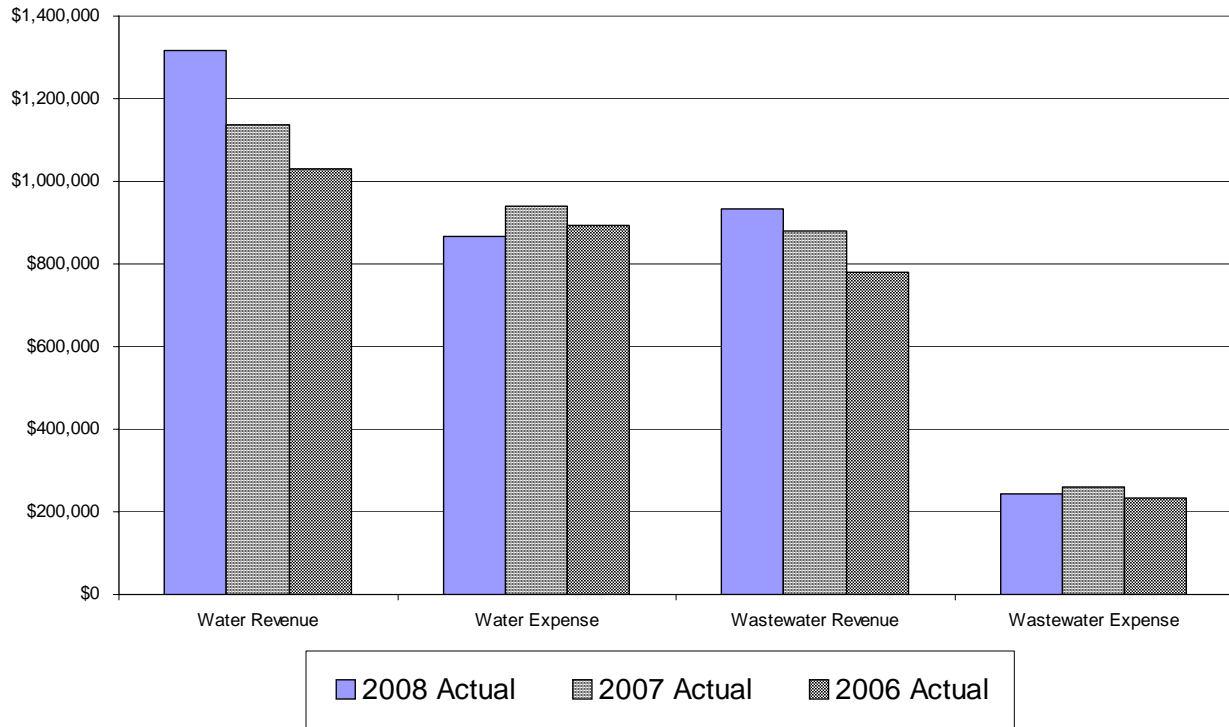


**Water, Wastewater and Storm Water Drainage Funds (The Utility Enterprise)**

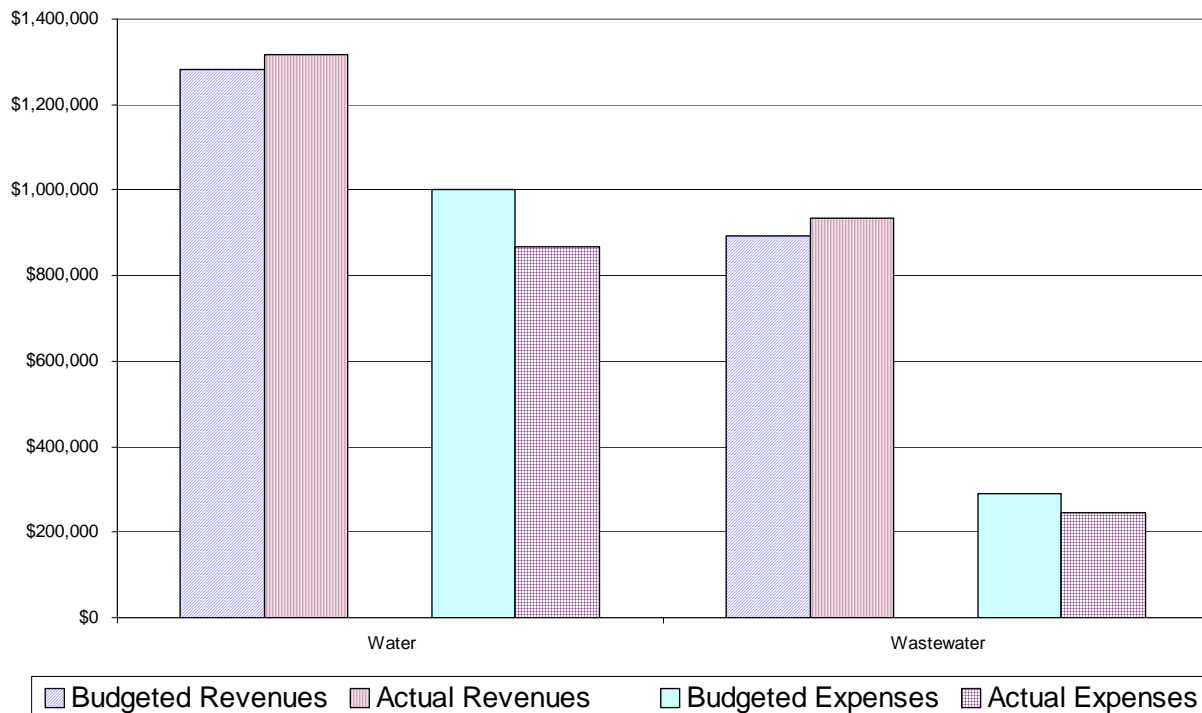
This fund reflects the operating results of the City’s water, wastewater and storm water systems. It is important to note that net operating revenues are used to fund capital projects and reserves.

These graphs represent the segment information for the Water and Wastewater funds.

**Water and Wastewater Funds  
Operating Revenue and Expenses 2006-2008**



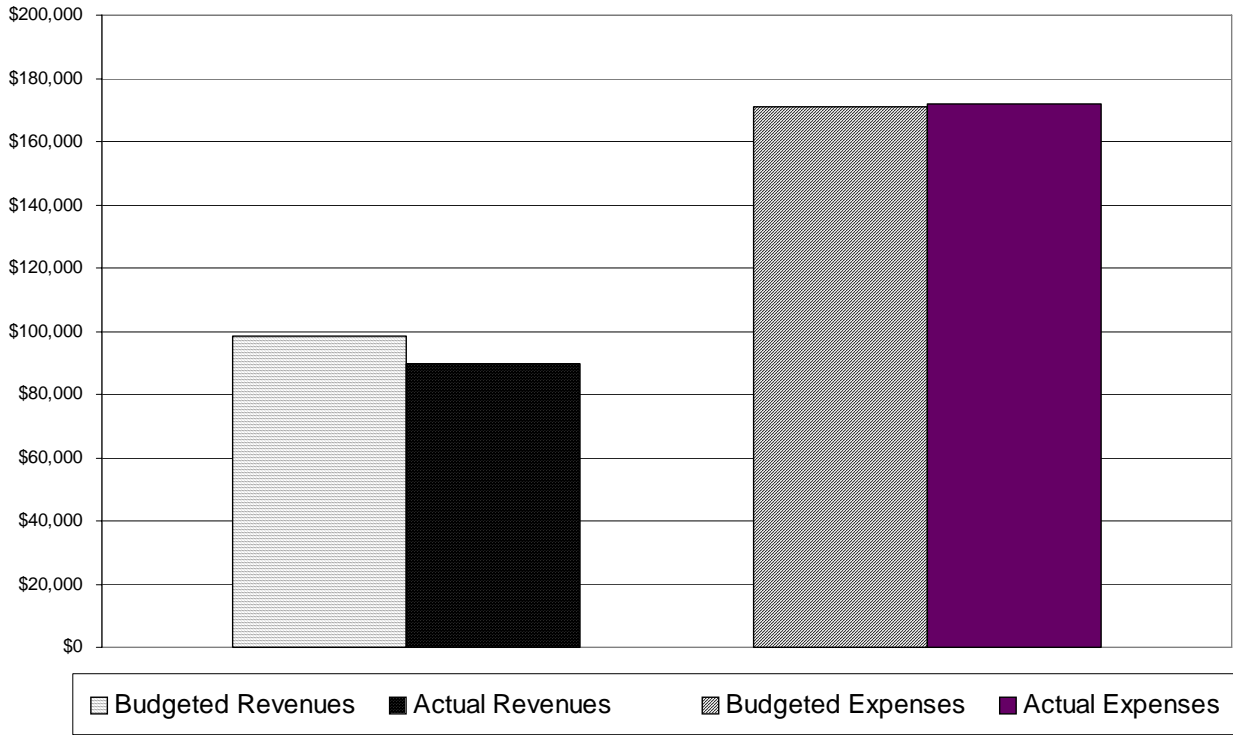
**Water and Wastewater Funds  
2008 Operating Budget vs Actual**



**Golf Course Enterprise (Legacy and Heritage Golf Courses)**

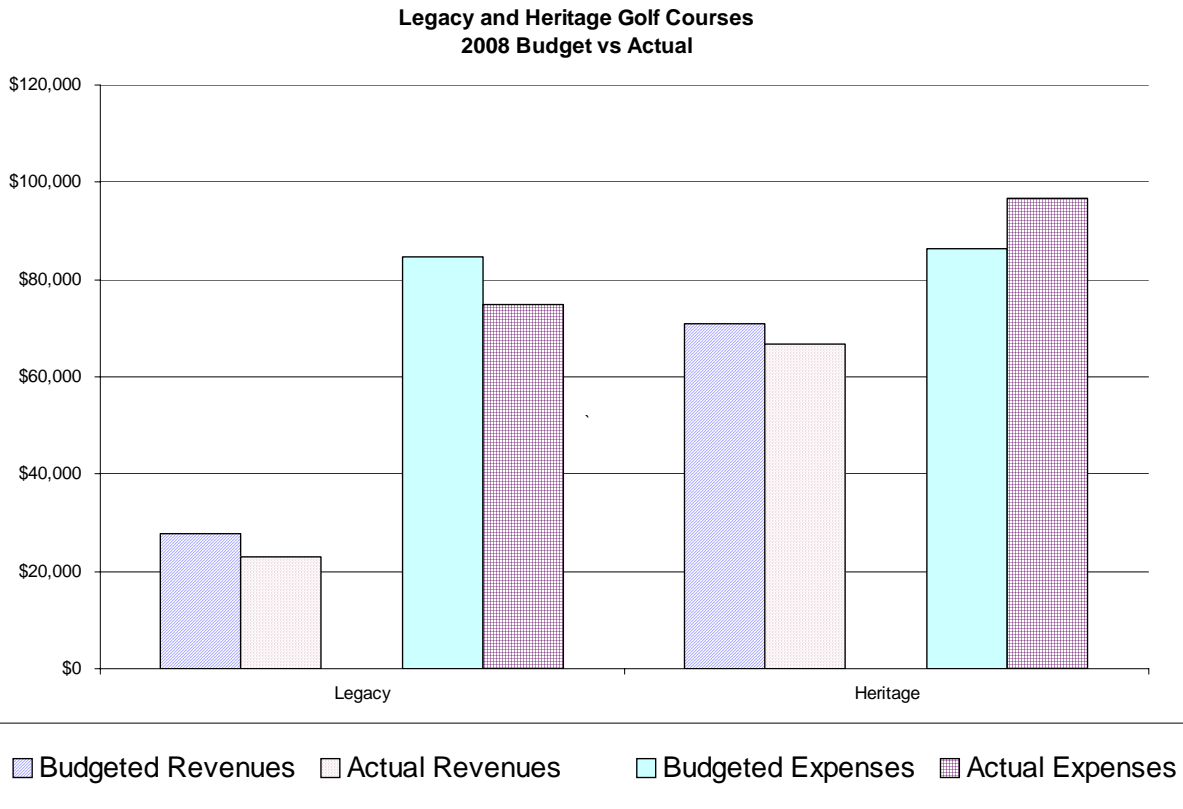
This enterprise reflects the operations of the City's two municipal golf courses.

**Combined Golf Courses  
2008 Budget vs Actual**



The following graphs represent the information for each of the golf courses.

The 2007 golf course revenues reflect the unusual amount of snow.



Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)  
MONTH OF JANUARY 2008

Center Location Major Tenant	YTD 2008			YTD 2007			%Change		
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use	Total	
WESTFIELD SHOPPING CENTER NW CORNER 92ND & SHER WALMART	623,877	1,904	625,781	626,282	1,858	628,140	0	2	0
WESTMINSTER MALL 88TH & SHERIDAN 4 DEPARTMENT STORES	618,018	6,276	624,294	695,514	3,815	699,328	-11	65	-11
WESTMINSTER CROSSING 136TH & I-25 LOWE'S	332,624	965	333,588	56,265	41	56,306	491	2282	492
CITY CENTER MARKETPLACE NE CORNER 92ND & SHERIDAN COMP USA/CIRCUIT CITY	330,720	2,502	333,222	378,409	2,474	380,882	-13	1	-13
SHOPS AT WALNUT CREEK 104TH & REED TARGET	314,505	2,377	316,882	265,863	651	266,514	18	265	19
NORTHWEST PLAZA SW CORNER 92 & HARLAN COSTCO	241,527	1,583	243,110	261,797	1,706	263,503	-8	-7	-8
BROOKHILL I & II N SIDE 88TH OTIS TO WADS HOME DEPOT	235,228	1,542	236,770	214,908	1,192	216,099	9	29	10
THE ORCHARD 144TH & I-25 JC PENNEY	229,742	14,306	244,048	209,228	928	210,156	10	1442	16
SHERIDAN CROSSING SE CORNER 120TH & SHER	199,410	1,891	201,301	227,178	1,725	228,903	-12	10	-12
NORTH PARK PLAZA SW CORNER 104TH & FEDERAL KING SCOOPERS	189,173	1,083	190,257	170,600	10,203	180,804	11	-89	5
PROMENADE SOUTH/NORTH S/N SIDES OF CHURCH RANCH BLVD SHANE/AMC	177,385	114,643	292,028	189,141	12,466	201,607	-6	820	45
VILLAGE AT THE MALL S SIDE 88TH DEPEW-HARLAN TOYS 'R US	172,626	573	173,199	173,958	300	174,257	-1	91	-1
STANDLEY SHORES CENTER SW CORNER 100TH & WADS KING SCOOPERS	119,473	540	120,013	121,298	716	122,014	-2	-24	-2
ROCKY MOUNTAIN PLAZA SW CORNER 88TH & SHER GUITAR STORE	77,651	213	77,864	70,962	222	71,184	9	-4	9
WESTMINSTER PLAZA FEDERAL-IRVING 72ND-74TH	59,594	186	59,780	56,490	553	57,043	5	-66	5

CITY OF WESTMINSTER

GENERAL RECEIPTS BY CENTER - SUMMARY YTD (CC)  
MONTH OF JANUARY 2008

Center Location Major Tenant	/----- YTD 2008 -----/			/----- YTD 2007 -----/			/--- %Change ---/		
	General Sales	General Use	Total	General Sales	General Use	Total Sales	Use	Total	
SAFEWAY STANDLEY LAKE MARKETPLACE NE CORNER 99TH & WADSWORTH	55,989	361	56,350	63,327	719	64,046	-12	-50	-12
SAFEWAY WILLOW RUN 128TH & ZUNI	53,348	135	53,483	62,388	330	62,718	-14	-59	-15
SAFEWAY BROOKHILL IV E SIDE WADS 90TH-92ND HANCOCK FABRICS	43,018	286	43,305	16,548	402	16,950	160	-29	155
VILLAGE AT PARK CENTRE NW CORNER 120TH & HURON CB & POTTS	41,079	666	41,744	35,827	8,899	44,726	15	-93	-7
ELWAY/DOUGLAS CORRIDOR NE CORNER 104TH & FED ELWAY MOTORS	25,192	1,133	26,325	21,764	1,288	23,052	16	-12	14
STANDLEY PLAZA SW CORNER 88TH & WADS WALGREENS	24,678	1,112	25,790	28,097	1,288	29,385	-12	-14	-12
MISSION COMMONS W SIDE WADSWORTH 88-90TH BIG 5 SPORTS	23,483	98	23,581	46,534	189	46,722	-50	-48	-50
SUMMIT SQUARE NE CORNER 84TH & FED SAFEWAY	23,211	108	23,319	22,398	200	22,599	4	-46	3
NORTHVIEW S SIDE 92ND YATES-SHER	22,733	881	23,614	49,692	2,107	51,799	-54	-58	-54
MEADOW POINTE NE CRN 92ND & OLD WADS CARRABAS	22,562	84	22,646	25,777	88	25,864	-12	-4	-12
	4,256,845	155,450	4,412,296	4,090,244	54,356	4,144,600	4	186	6





**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Purchase of a Utility Van

**Prepared By:** Carl F. Pickett, Purchasing Officer

**Recommended City Council Action**

Award the bid for a replacement utility van to the low bidder, Transwest Trucks, for a Freightliner chassis and a Morgan Olson body in the amount of \$57,744.

**Summary Statement**

- City Council action is requested to award the City's Bid for a replacement utility van to the low bidder, Transwest Trucks.
- This vehicle will be used by the Utilities Division in the maintenance and repair of utility water lines.
- This expense was previously approved by City Council in the 2008 budget and the funds have been specifically allocated in the 2008 Utility Fund Budget.
- Once purchased, the vehicle will be fitted with an alternator, air compressor, and hydraulic power unit by the City's Fleet Division. The cost for this equipment will add another \$22,115 to the total cost of the van.

**Expenditure Required:** \$57,744

**Source of Funds:** Utility Fund – Utilities Division Operating Budget

**Policy Issue**

Should the City follow standard bidding procedures and accept the low qualified bid from Transwest Trucks?

**Alternative**

Do not purchase the proposed replacement vehicle in 2008. This alternative is not recommended based on Fleet Maintenance recommendations and past vehicle maintenance history that makes it impractical to keep this vehicle in regular service.

**Background Information**

As part of the 2008 budget, City Council approved the purchase of a replacement utility van to be utilized by the Utilities Division. This vehicle is used for the maintenance and repair of water pipelines and other utility facilities. The unit is used to provide lights, compressed air & hydraulic power to the repair crew during repair projects. Unit #9397 has reached a point that it is no longer economically reasonable to maintain it in service in its current condition. Information regarding this vehicle replacement is as follows:

<b>UNIT #</b>	<b>YEAR</b>	<b>MAKE</b>	<b>MODEL</b>	<b>HOURS</b>	<b>VEHICLE MAINTENANCE COSTS LIFE TO DATE (LTD)</b>
9397	1996	International	4700 LP	6,066	\$34,706.96

Sixty-one vendors were notified of this Invitation for Bid through the City’s internet bidding system. Five vendors downloaded the bid documents. No vendors submitted a bid. City staff then contacted local vendors and asked for quotes using the City’s specifications for the Utility van. One quote was received.

<b>Vendor</b>	<b>Bid</b>
Transwest Trucks w/Morgan Olson	\$57,744
McCandless International Truck	No Quote

All bidding requirements set by the City were fulfilled. The quote from Transwest Trucks meets all specifications and requirements set by the Invitation for Bid. The cost of the utility van, \$57,744, is within the amount previously authorized by City Council for this expense and is \$841 dollars less than an identical unit purchased in 2006

The present condition and maintenance history of this vehicle would make it impractical to continue to operate it in regular service based on Fleet Maintenance replacement recommendations. The replacement unit is a heavier duty, diesel-powered unit, with a longer anticipated lifespan. An additional \$40,000 is contained in the budget to outfit the unit with an alternator, air compressor & hydraulic power unit. Fleet staff has put together a quote to outfit the van in house for \$22,115, which is well below the budgeted amount.

This project meets Council’s Strategic Plan goals of Financially Sustainable City Government and Safe and Secure Community by keeping the utility fleet on the street and improving their service level at the best possible price.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Purchase of Gasoline and Diesel Fuel for City Vehicles

**Prepared By:** Carol F. Pickett, Purchasing Officer

**Recommended City Council Action**

Ratify the purchase of \$71,339.29 from Gray Oil for fuel, and award the bid for unleaded gasoline and diesel fuel to Gray Oil to be delivered on an as-needed basis, in an amount not to exceed \$1,042,537 for total 2008 purchases.

**Summary Statement**

- The \$71,339.29 fuel charge was invoiced in January, 2008. The City had agreed to the MAPO contract with Gray Oil for 2008 on January 1, 2008, but Staff was waiting on the futures market to lower so that the City could lock its unleaded gasoline and diesel fuel prices before coming to Council.
- Staff has not locked the price of diesel and mid-grade unleaded yet this year due to high prices on the New York Mercantile Stock Exchange (NYMEX) futures market.
- City Council approved \$1,042,537 in the 2008 Fleet Maintenance Fund Budget to purchase fuel and lubricants.
- In December 2007, the Multiple Assembly of Procurement Officials (MAPO) awarded Gray Oil a price agreement for gasoline and diesel fuel for 2008, with two renewable optional years.
- Gray Oil was the low bidder in the MAPO bid for fuel and is being recommended for award of City fuel for 2008.

**Expenditure Required:** Not to Exceed \$1,042,537

**Source of Funds:** Fleet Maintenance - Fund-Fleet Maintenance Division

**Policy Issue**

Should the City utilize the MAPO bid for its fuel purchases for 2008?

**Alternative**

Do not use the MAPO bid and re-bid fuel. This is not recommended as the volume of fuel used by the City of Westminster is about one tenth the volume of MAPO, and it is very doubtful that better pricing can be obtained.

**Background Information**

As part of the 2008 Budget, City Council approved the purchase of fuel for the City’s vehicles. For the past four years, the City has used Gray Oil for fuel services.

A bid was requested on behalf of MAPO, a cooperative of state, municipal, county, special district, school district or other local government agencies, in 2007. This was a competitive bid and offers greater volume and lower prices to the City than the City can obtain on its own. Five local vendors responded to MAPO’s Invitation for Bid, and the low bid for both gasoline and diesel fuel was recommended for award. MAPO included two optional, renewable years to the bid.

The MAPO bid was structured such that the bidders were quoting a price differential above/below the current weekly Oil Price Information Service (OPIS) or the New York Mercantile Exchange (NYMEX) average futures price, depending on whether the fuel would be purchased with either a “floating” or “fixed” price, respectively. The City is “floating” right now, waiting for a better “fixed” price on the NYMEX.

Staff has been monitoring the cost of unleaded gas and diesel for the past four years. Currently, prices are at an all time high and futures prices for an extended contract are twenty cent per gallon higher than the weekly OPIS, or “float” price. Staff will continue to monitor fuel prices, and will apprise Council if a price lock is achieved this year. The City’s of Denver, Aurora, and Greeley, plus DIA, Denver Public Schools, and Jefferson County are also waiting for prices to come down before locking for the year.

The formula to figure weekly pricing is as follows:

Unleaded and Diesel – The weekly OPIS average minus three cents, plus freight and the Colorado Environmental tax.

The full load freight rates to the City of Westminster are \$.0142 per gallon - Gasoline and \$.0161 per gallon - Diesel Fuel - plus the Colorado Environmental tax is \$.015 per gallon.

Using the above formula, the estimated cost for fuel during the rest of 2008 is based on the approximate annual usage and last invoiced price as follows:

<b>FUEL</b>	<b>APPROXIMATE QUANTITY</b>	<b>LAST INVOICED PRICE</b>	<b>EXTENDED PRICE</b>	<b>VENDOR</b>
Un-Leaded	240,000 gallons	\$2.3259 gal	\$558,216	Gray Oil
Diesel	120,000 gallons	\$2.5941 gal	\$311,292	Gray Oil

Since the City is still “floating” the price, this estimate may trend upwards.

**SUBJECT:** Purchase of Gasoline and Diesel Fuel for City Vehicles

Page 3

Westminster City Code 15-1-4-A1 specifically states that using a bid by another unit of government is an acceptable form of purchasing for the City.

This project meets Council's Strategic Plan goals of Safe and Secure Community and Financially Sustainable City Government by keeping the City's fleet on the street and improving service levels at the best possible price.

Respectfully submitted,

J. Brent McFall  
City Manager



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Intergraph Corporation Software Maintenance Agreement

**Prepared By:** Lee Birk, Chief of Police  
Darrin Bacca, Police Records Supervisor

**Recommended City Council Action**

Authorize the City Manager to sign a contract with Intergraph Corporation for the 2008 Annual Software Maintenance in the amount of \$151,015.

**Summary Statement**

- The City of Westminster purchased an integrated Computer Aided Dispatch (CAD), Police Records Management System (RMS), Fire Records Management System (FMS) and the Mobile computer applications from Intergraph Corporation. These systems are heavily relied upon by communications personnel for dispatching of police and fire to emergencies and non-emergency events. These systems are utilized by police and fire personnel for entering call data from the public, entering in police and fire offense reports and incident reports, and provide a tool for field units to receive dispatch data and handle calls in the field. These funds were specifically budgeted in the Police and Fire Department 2008 operations budget and the expenditure is within budget.
- It is critical for these systems to remain operational at all times and that problems with the system are addressed in a timely manner to ensure public safety response to critical incidents and emergencies. Additionally, the yearly maintenance provides for upgrades in existing software to ensure that the applications have current functionality as well as any necessary updates or repairs.
- The City Attorney's Office has reviewed and approved the contract.

**Expenditure Required:** \$151,015

<b>Source of Funds:</b>	2008 Police General Fund Operating Budget:	\$111,045
	2008 Fire General Fund Operating Budget:	\$ 39,970

**Policy Issue**

Should the City of Westminster renew the annual software maintenance contract with Intergraph Corporation for the Police and Fire CAD, Police RMS, Fire RMS and Mobile system?

**Alternative**

Do not pay the annual software maintenance and support. Staff does not recommend this alternative because this action would leave the operations of both the Police and Fire Departments at risk.

**Background Information**

The Intergraph systems were purchased in 2000 and included a Computer Aided Dispatch (CAD) system, Police Records Management System (RMS), Fire Records Management System (RMS), the Mobile Computer Application and various system interfaces to include Enhanced 911 (E911) and Automatic Vehicle Locating. The system was designed to integrate all applications and components together to allow for a seamless transmission of data and information. Communications staff input "service events" into a database and in turn, field units are able to receive those service events through their mobile data computers and consequently submit on line offense reports into the Police RMS. The Police RMS is a repository for police crime reports, arrest data, impounded evidence and stolen property. It allows for the department to generate monthly and annual crime statistics that are required to be reported to the Federal Bureau of Investigations (FBI), via National Incident Based Reporting System (NIBRS) and to the Colorado Bureau of Investigations (CBI). The Fire RMS component is used for tracking building inspections, Emergency Medical Services (EMS) reporting and National Fire Incident Reporting (NFIRS). The City has executed and maintained a maintenance contract with Intergraph Corporation every year since the system was purchased. The annual maintenance contract allows all components of the system to be covered by the Intergraph Corporation. The CAD system maintenance plan provides for 24 hours a day, 365 days a year due to the critical nature of the application

Support by Intergraph Corporation allows customers several options; the first is to have an immediate response to a problem by calling a telephone service support line that provides software support. The support line is answered by Intergraph Corporation support engineers for product specific technical needs and problems. The second response generally used for non-emergency requests is to submit on-line help via a service request. Additionally, the yearly maintenance provides for upgrades in existing software to ensure that the applications have current functionality and provides for mid-year fixes or updates. The Information Technology Department requests that individual department maintain current software applications and software maintenance contracts with their vendors to avoid system problems. The Information Technology Department supports this specific maintenance agreement.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 9 E

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
February 25, 2008



**SUBJECT:** Reimbursement of Costs Related to the Axis Development

**Prepared By:** Steve Smithers, Assistant City Manager

#### Recommended City Council Action

Authorize the payment of \$50,000 to the NBC Metro District for reimbursement of legal and other costs related to the exclusion of City owned land from the Circle Point NBC Metropolitan District.

#### Summary Statement

- The City has a purchase and sale agreement in place with Urban Pacific Builders for the parcel of land located just south of the Circle Point office complex (see attached map).
- As previously discussed with City Council, a residential development (Axis) is planned for this parcel, which will be coming before City Council for approval in the near future.
- The north portion of this parcel of land is currently part of the NBC Metropolitan District and Urban Pacific has requested that it be excluded from the District to reduce the property tax burden on future residents and to keep the tax rate consistent over the entire parcel. The current mill levy for the District is 55 mills, including debt service and operating mill levies.
- Catellus has cooperated with the City in doing the necessary legal and other work to move this exclusion forward and has asked the City to cover a portion of the costs to date.
- Staff has negotiated with Urban Pacific to cover these costs, and they have agreed to provide funding through the land acquisition and closing fees that will cover the \$50,000 cost and other expenses related to the exclusion.

**Expenditure Required:** \$50,000

**Source of Funds:** Developer Funding



**Policy Issue**

Should the City up front \$50,000 in costs to allow the exclusion of land for the Axis Project to move forward?

**Alternative**

The City could choose to not make this payment and require the developer to pay this cost directly. This is not recommended because Urban Pacific has already agreed to reimburse the City for this cost. The City, as current owner of the land, is in the best position to move this exclusion forward. Requiring the developer to move into the lead role on this exclusion could create unnecessary delays for the development.

**Background Information**

The parcel of land discussed in this agenda memorandum was originally part of the land owned by Catellus Corporation and was part of the Circle Point commercial office building project. All of the land for Circle Point was sold by the City to Catellus in 1999 under a phased purchase contract. Catellus designed and built the first two office buildings and was in process of design work on a third building when the office marketplace experienced significant problems in 2002/2003. Catellus negotiated and the City agreed to take back portions of the original land in Circle Point including the parcel discussed in this memo. The City was agreeable to this proposal because at that time a large retail developer was very interested in constructing a store on this parcel. The thinking at that time was to keep the parcel in the NBC Metropolitan District in order to pay for necessary public infrastructure improvements.

The retail project did not move forward and the City pursued other interested developers. Urban Pacific Builders, a California residential developer, approached the City on developing a residential development on the site. The City pursued discussions on this project, known as Axis, because of the site's proximity to a future commuter rail station and the potential for creating a natural tie in with the Promenade. City Council approved the sale of this parcel, along with additional land owned by the City, to Urban Pacific on October 24, 2005.

Urban Pacific, the City, Catellus and the NBC Metropolitan District have been engaged in discussions on excluding this parcel from the District for over two years. Staff believes excluding this parcel makes sense because Urban Pacific has committed to provide the infrastructure improvements that would otherwise be provided by the District. In addition, removing the mill levy will make this residential development more competitive in the marketplace.

Exclusion from an existing District is a complex undertaking that requires detailed legal work and a carefully guided process to complete successfully. The City has been involved in this exclusion at the request of the developer because the City is currently the owner of the parcel, and to assure that the process is completed in a timely fashion that does not hinder the development from moving forward.

Catellus and the District have covered all costs to date of the exclusion effort and are requesting a partial reimbursement (\$50,000) at this point in time. The City has negotiated with Urban Pacific to cover these costs through fees paid as part of the purchase and sale agreement and the overall land cost. Funds have already been received from Urban Pacific that will cover this expense; however there will be other costs related to the exclusion that will be paid through proceeds from the land sale to Urban Pacific. The City anticipates closing with Urban Pacific on the sale of the City's parcel in the next two months. The exclusion should be complete by May of this year.

Respectfully submitted,

J. Brent McFall  
City Manager  
Attachment – Site Map



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**City of Westminster**





## Agenda Item 10 A

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Resolution No. 9 re Appointments to Boards and Commissions

**Prepared by:** Linda Yeager, City Clerk

**Recommended City Council Action**

Adopt Resolution No. 9 to fill vacancies on the Board of Adjustment, the Board of Building Code Appeals, the Environmental Advisory Board, the Historic Landmark Board, the Human Services Board, the Open Space Advisory Board, the Parks, Recreation and Libraries Advisory Board, the Special Permit and License Board, and the Transportation Commission.

**Summary Statement**

- City Council action is requested to appoint citizens to fill vacancies in alternate and regular memberships on nine of the City's established Boards and Commissions. The vacancies are the result of resignations received in December 2007 or the ineligibility of previous appointees to continue service due to the residency requirement.
- Having interviewed interested applicants, City Council's action will be to appoint 15 individuals to fill existing vacancies on the Board of Building Code Appeals, the Environmental Advisory Board, this Historic Landmark Board, the Human Services Board, the Open Space Advisory Board, the Parks, Recreation and Libraries Board, the Special Permit and License Board, and the Transportation Commission, and one alternate to regular membership on the Board of Adjustment.
- Interviewees who are not being appointed to serve immediately will be included in a pool of eligible applicants to fill vacancies that might occur during 2008.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Does City Council want to fill vacancies on Boards and Commissions so a full complement of members can fulfill the duties established for each Board or Commission?

**Alternative**

None identified

**Background Information**

The terms of regular members of the City's Boards and Commissions expired December 31, 2007, and several appointees were not reappointed due to resignation or relocation from the City, creating vacancies. The specifics on each of these vacancies are as follows.

Raymond Selix, a regular member of the Board of Adjustment, has resigned and moved from the City. The attached resolution names Tom Roemersberger, the current alternate, to the regular member position. His term of office will expire on December 31, 2009.

The Board of Building Code Appeals had vacancies in 2007 due to a lack of qualified, interested applicants. Those members whose terms expired on December 31 wanted to continue to serve and were reappointed by City Council. The attached resolution names to this Board Emma Pinter a regular member through December 31, 2008, and Justin Price an alternate member through December 31, 2009. A vacancy in an alternate membership remains to be filled at a later date.

Vacancies were created on the Environmental Advisory Board when Kathy Reynolds resigned in December 2007 and Steve Marlin voiced interest in being appointed to another Board. Additionally, this Board had a pre-existing alternate member vacancy. If adopted, the attached resolution will appoint Michele Christiansen and Belinda Butler-Veytia as regular members of the Board through December 31, 2008; and Denise Dillinger as the alternate member through December 31, 2009.

When Kathleen Dodaro, the alternate, was appointed to fill the unexpired term of Jeff Konrade-Helm as a regular member on the Human Services Board, a vacancy was created in the alternate position. The attached resolution appoints Tom Bruchmann the alternate. His term will expire December 31, 2009.

Betty Roan, regular member, and Sergio Aradillas, alternate, resigned their positions on the Historic Landmark Board when their terms expired on December 31, 2007. The attached resolution appoints Laura Vandenbosch to regular membership and Dan Gossert to the alternate position. Both of their terms will expire on December 31, 2009.

A vacancy in the alternate membership on the Opens Space Advisory Board was created as a result of Councillor Brigg's election to City Council. The attached resolution appoints JoAnn Price as the alternate member with a term to expire December 31, 2009.

To fill vacancies that occurred on the Parks, Recreation and Libraries Advisory Board with the resignations of Wendi Garland and W. J. Peniston, the attached resolution appoints Janet Bruchmann a regular member and Mary Litwiler an alternate. Both of their terms will expire on December 31, 2009.

Nancy Peters and Donna McMillan resigned from the Special Permit and License Board when their terms ended on December, 31, 2007. The alternate, BJ Sanchez, was appointed to regular membership in January 2008, leaving vacancies in a regular and an alternate membership. The attached resolution appoints Steve Marlin the regular member and Martha Brundage the alternate, with terms that expire December 31, 2009.

**SUBJECT:** Resolution re Appointments to Boards and Commissions

Page 3

Stephen Donelson recently resigned from the Transportation Commission. A vacancy in the alternate membership occurred earlier in 2007 and has not been filled. The attached resolution appoints Sean Hiller a regular member through December 31, 2008, and Skeet Hartman the alternate member through December 31, 2009.

Interested citizens who applied for, but were not appointed to a Board or Commission will be included in a pool of eligible applicants to fill vacancies that might occur during 2008.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

RESOLUTION

RESOLUTION NO. 9

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**Major - Kaiser**

**CITY OF WESTMINSTER BOARD AND COMMISSION APPOINTMENTS**

WHEREAS, Members of various City Boards and Commissions whose terms expired on December 31, 2007, submitted resignations, creating vacancies in the offices where they had served; and

WHEREAS, It is important to have each City Board or Commission working with its full complement of authorized members to carry out the business of the City of Westminster with citizen representation; and

WHEREAS, City Council interviewed citizens who had applied for appointment to Boards and Commissions of interest to them personally.

NOW THEREFORE, be it resolved that the City Council of the City of Westminster does hereby appoint the following individuals to regular membership on the City of Westminster Board or Commission with terms of office to expire as listed.

<b>BOARD/COMMISSION</b>	<b>APPOINTEE</b>	<b>TERM EXPIRES</b>
Board of Adjustment	Tom Roemersberger	December 31, 2009
Board of Building Code Appeals	Emma Pinter	December 31, 2008
Environmental Advisory Board	Belinda Butler-Veytia and Michele Christiansen	December 31, 2008
Historic Landmark Board	Laura Vandenbosch	December 31, 2009
Parks, Recreation & Libraries Advisory Board	Janet Bruchmann	December 31, 2009
Special Permit & License Board	Steve Marlin	December 31, 2009
Transportation Commission	Sean Hiller	December 31, 2008

The following individuals are appointed to alternate memberships as listed.

<b>BOARD/COMMISSION</b>	<b>APPOINTEE</b>	<b>TERM EXPIRES</b>
Board of Building Code Appeals	Justin Price	December 31, 2009
Environmental Advisory Board	Denise Dillinger	December 31, 2009
Historic Landmark Board	Dan Gossert	December 31, 2009
Human Services Board	Tom Bruchmann	December 31, 2009
Open Space Advisory Board	JoAnn Price	December 31, 2009
Parks, Recreation & Libraries Advisory Board	Mary Litwiler	December 31, 2009

Special Permit & License Board

Martha Brundage

December 31, 2009

Transportation Commission

Skeet Hartman

December 31, 2009

PASSED AND ADOPTED this 25<sup>th</sup> day of February, 2008.

ATTEST:

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Mayor

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City Clerk



## Agenda Item 11 A&B

**WESTMINSTER**  
**COLORADO**

### Agenda Memorandum

City Council Meeting  
February 25, 2008



**SUBJECT:** Public Hearing and Action on Councillor's Bill No. 4 for a Rezoning from Open District to Planned Unit Development for the Savory Farm Estates Planned Unit Development

**Prepared By:** Patrick Caldwell, Planner II

### Recommended City Council Action

1. Hold a public hearing.
2. Pass Councillor's Bill No. 4 on first reading approving a rezoning from Open District to Planned Unit Development for Savory Farm Estates Planned Unit Development. This recommendation is based on a finding that the criteria set forth in Sections 11-5-14 of the Westminster Municipal Code have been met.

### Summary Statement

- The 8.133 acre site is located east of Federal Boulevard at approximately the alignment of 109<sup>th</sup> Avenue.
- The proposed rezoning will change the currently designated zone from Open District (O1) to Planned Unit Development (PUD).
- The Preliminary Development Plan and Official Development Plan (PDP/ODP) for Savory Farm Estates was approved by the City Council on December 10, 2007 and will allow 24 single family detached residential units on the site. Public and private open spaces are part of that PDP/ODP.
- The City's Comprehensive Land Use Plan (CLUP) was amended on January 14, 2008, to R-3.5. This designation is consistent with the approved ODP.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A



### **Planning Commission Recommendation**

The Planning Commission reviewed this proposal on February 12, 2008, and voted unanimously (6-0) to recommend that the City Council approve the rezoning for the Savory Farm Estates Planned Unit Development site changing the zone designation from Open District (O1) to Planned Unit Development (PUD).

### **Policy Issue**

Should the City Council approve a rezoning for the Savory Farm Estates Planned Unit Development site changing the zone designation from Open District (O1) to Planned Unit Development (PUD)?

### **Alternative**

Deny the rezoning for the Savory Farm Estates Planned Unit Development changing the zone designation from Open District (O1) to Planned Unit Development (PUD). This alternative would not allow this project to move forward as currently proposed and would not be consistent with past actions taken on the PDP and ODP.

### **Background Information**

#### Nature of Request

The property is currently vacant. The owner wishes to develop the site with 24 single family detached residential units. The current zone designation is Open District. The City's zoning code states that the Open District may be used at the time of annexation for "protecting non-urbanized areas until urbanization is warranted and the appropriate change in district classification is made." This site has been Open District since it was annexed into the City in November of 1996.

#### Location

The site is located on the east side of Federal Boulevard at approximately the 109<sup>th</sup> Avenue alignment. (Please see attached vicinity map). To the north is the existing Savory Farms Subdivision. To the east and south are City owned open space and the Legacy Ridge Golf Course.

#### Comprehensive Land Use Plan Amendment

The City's Comprehensive Land Use Plan (CLUP) was amended for this site to R-3.5 with the second reading of Ordinance No. 64, Series 2007 on January 14, 2008. The CLUP designation was changed to allow the residential density to increase from 2.5 to 3.5 dwelling units per acre. The rezoning to a residential PUD will make the zone designation consistent with the CLUP residential designation.

#### Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. Notice for the City Council hearing was published in the Westminster Window on February 14, 2008.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Signs were posted on the property on February 14, 2008.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner's associations registered with the City within 300 feet of the subject property. The required notices were mailed on January 31, 2008.

Applicant/Property Owner

Thomas W. Ten Eyck, Jr.  
12460 1<sup>st</sup> Street  
P.O. Box 247  
Eastlake, Colorado 80614

Surrounding Land Use and Comprehensive Land Use Plan Designation

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: Savory Farms	PUD	R-2.5 Residential	Single Family Detached Residential
West: Legacy Ridge	PUD	Golf Course and R-2.5 Residential	Single Family Detached Residential and Legacy Ridge Golf Course
East: City Owned Open Space	O-1	City Owned Open Space	Open Space
South: City Owned Open Space and Legacy Ridge Golf Course	O-1	City Owned Open Space	Open Space

Site Plan Information

The PDP/ODP of Savory Farm Estates site plan was reviewed for compliance with the City’s land development regulations and guidelines and the criteria contained in Sections 11-5-14 and 11-5-15 of the Westminster Municipal Code (attached). The PDP/ODP was approved by the City Council on December 10, 2007. This rezoning from O1 to PUD zoning will make the approved residential PDP/ODP of Savory Farm Estates consistent with the zoning designation.

Service Commitment Category

Service Commitments were awarded for this site in April 2004. A total of 28 Service Commitments were made available for single family detached dwellings in the B-1 category. Per City Council Resolution 23 of 2004 “The project must proceed with the development review process and receive ODP approval by December 31, 2007, or the entire Service Commitment award for the project shall expire.” On December 10, 2007 the Westminster City Council granted this site an extension for two years, to December 31, 2009, for 24 Service Commitments needed for development of the plans shown on the Savory Farm Estates PDP/ODP.

Environmental Cleanup

The 8.13 acre parcel was part of a larger farming operation. In the 1930’s and 1940’s Charles Savery and his brother ran the Great Western Mushroom Farm here. Fires in the late 1940’s destroyed the business. The parcel contains concrete footings from the buildings, a cistern, the boiler building footings, a subsurface flue for steam transmission and an underground fuel oil tank at the west side of the site. Most of the wood and metal waste from the site has been removed. Reports prepared by environmental consultants in 1994 and 1997 indicate that the surface soil on the site is contaminated with low concentrations of the pesticides DDT, DDE and DDD. These contaminants biodegrade over a period of time. Most of the soil on the site, away from the foundations, has a concentration below established regulatory cleanup thresholds of .58 mg/Kg. The Colorado Department of Health and Environment (CDH&E) has approved a Voluntary Cleanup Plan and will supervise the cleanup. The focus of the cleanup will be removing 12 inches of soil from below and around the old foundations. During the cleanup dust will be monitored and suppressed if needed. Storm water runoff will also be monitored during the cleanup. The cistern will be filled in and the fuel oil tank will be removed. Once the environmental remediation has been cleaned up per the Voluntary Cleanup Plan the CDH&E will issue a letter of “No Action Determination,” or the applicant can ask for an extension. The zone change from O1 to PUD does not affect the cleanup plans.

Referral Agency Responses

A copy of the proposed plans and zone change request was sent to the following agencies:

- Xcel Energy; concerns regarding utility easements for each lot has been addressed on the ODP.
- Comcast; no response was received.
- Qwest; no response was received.
- Savory Farms Subdivision Homeowners Association; see information below under the heading of Neighborhood Meeting.
- City Parks Department; the City Parks Department coordinated the public land dedication location, trail connections, preservation of specimen trees, maintenance arrangements and fence locations for this plan.
- City Open Space Division; license agreements for utility work on City land, location of public land dedication, maintenance arrangements and fence locations were negotiated to the satisfaction of the City's Open Space Division.
- City Public Works and Utilities (utilities and reclaimed water sections); reclaimed water will be used in the private parks. Utility connections for sanitary and storm sewer and looped water lines were reviewed and are satisfactory to the City Public Works and Utilities Department.
- City Environmental Officer; see information above under the heading of Environmental Cleanup.
- City Fire Department; all issues have been addressed.
- City Engineering Division; issues regarding drainage, curb and gutter locations, looping of water lines, easements through adjacent City owned open space and through the adjacent Savory Farms Subdivision, access to Federal Boulevard, dedication of right-of-way on Federal Boulevard and design of deceleration lane on Federal Boulevard have been addressed to the satisfaction of the Engineering Division.
- City Landscape Plans review; preservation of specimen trees, landscape and layout of the private park areas, landscape on the Federal Boulevard frontage, berm and landscape adjacent to the 8 ft. masonry wall along Federal Boulevard, quantity and quality of the street trees on Eliot Circle and landscape within the private park areas are acceptable to the landscape plans reviewer.

Neighborhood Meeting(s) and Public Comments

Neighborhood meetings were held in January and April of 2006. Neighbors in the existing adjacent Savory Farms Subdivision made a number of requests and these were accommodated on the approved PDP/ODP of Savory Farm Estates. The rezoning from O1 to PUD has been supported by the Savory Farms Homeowners Association.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Vicinity Map
- Zoning Map
- Zoning Ordinance
  - Exhibit A (Legal Description for 109<sup>th</sup> & Federal Blvd.)
  - Exhibit B (Zoning Map for Zoning Ordinance)
- Criteria and Standards for Land Use Applications

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **4**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

**Briggs - Winter**

**A BILL  
FOR AN ORDINANCE AMENDING THE ZONING OF THE 8.133  
ACRE SAVORY FARM ESTATES PUD SITE ON THE EAST  
SIDE OF FEDERAL BOULEVARD AT APPROXIMATELY 109<sup>TH</sup>  
AVENUE, ADAMS COUNTY, COLORADO FROM O-1 TO PUD**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

- a. That an application for the rezoning of the property generally located east of Federal Boulevard at approximately 109<sup>th</sup> Avenue, as described in attached Exhibit A, from the O-1 zone to the PUD zone, has been submitted to the City for its approval pursuant to W.M.C. §11-5-2.
- b. That the notice requirements of W.M.C. §11-5-13 have been met.
- c. That such application has been referred to the Planning Commission, which body held a public hearing thereon on February 12, 2008 and has recommended approval of the requested amendment.
- d. That Council has completed a public hearing on the requested zoning pursuant to the provisions of Chapter 5 of Title XI of the Westminster Municipal Code and has considered the criteria in W.M.C. § 11-5-14.
- e. That based on the evidence produced at the public hearing, a rezoning to the proposed PUD zoning complies with all requirements of City Code, including, but not limited to, the provisions of W.M.C §11-5-14, regarding standards for approval of planned unit developments and §11-4-3, requiring compliance with the Comprehensive Land Use Plan.

Section 2. The Zoning District Map of the City is hereby amended by reclassification of the property, described in Exhibit A, attached hereto and incorporated herein by reference, from the O-1 zoning district to the PUD zoning district, as depicted on the map marked Exhibit B, attached hereto.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of February, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 17<sup>th</sup> day of March, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office

## Criteria and Standards for Land Use Applications

### *Comprehensive Land Use Plan Amendments*

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

### *Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)*

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.

9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

### ***Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)***

#### **11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)**

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

### ***City Initiated Rezoning***

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

### ***Official Development Plan (ODP) Application***

#### **11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)**

(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.

5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

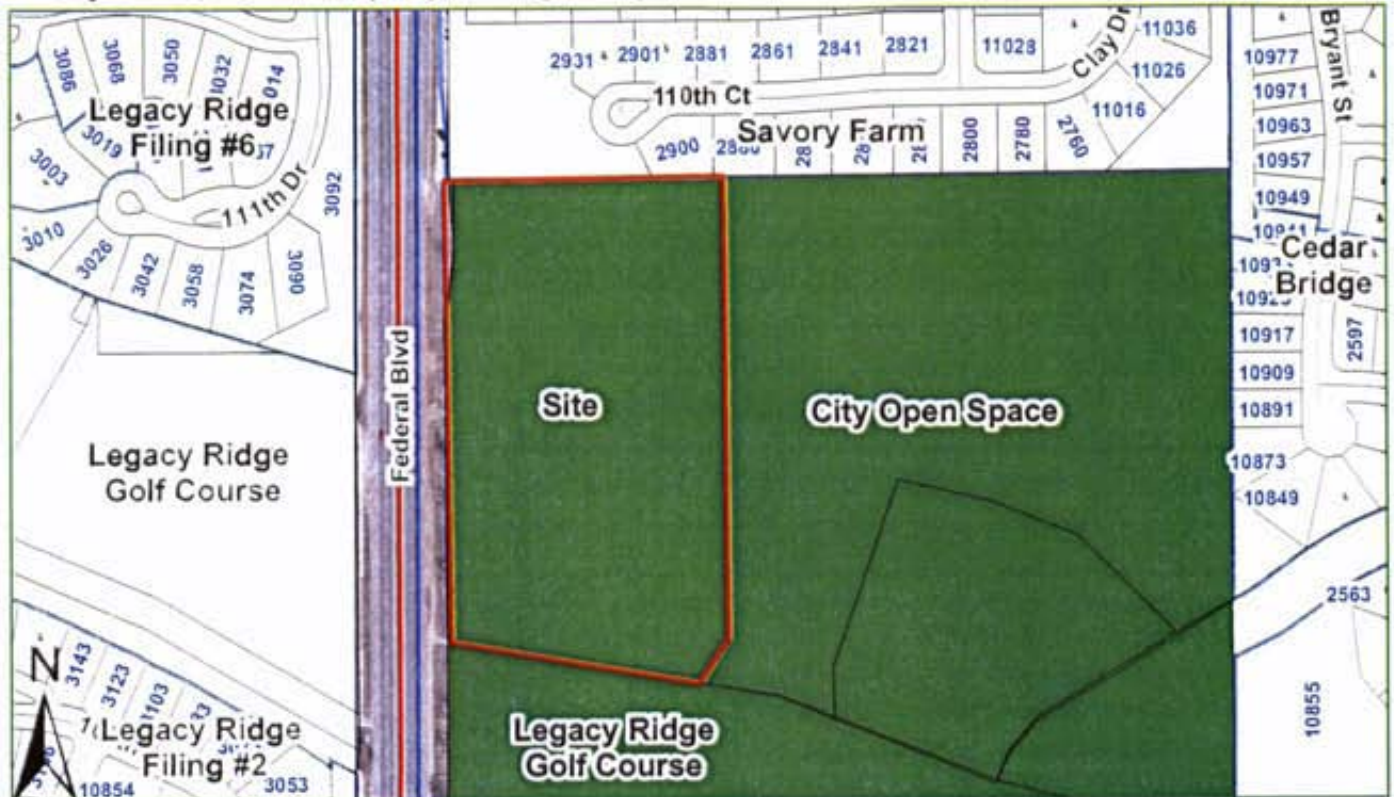
(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

# Savory Farm Estates Vicinity Map

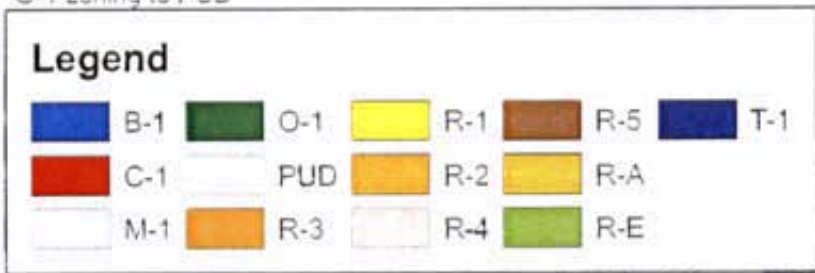




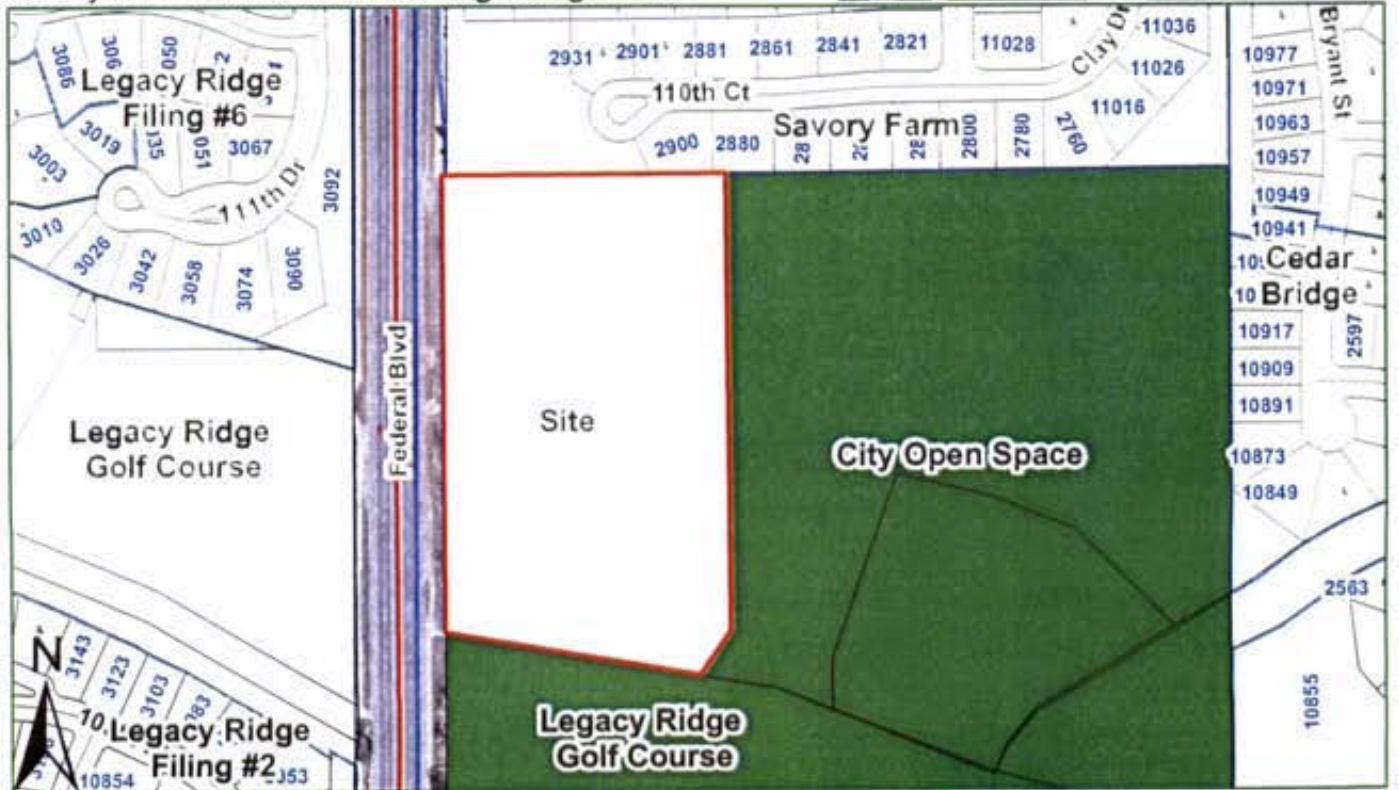
# Savory Farm Estates Property Zoning Designation



Description of Change: O-1 zoning to PUD



# Savory Farm Estates New Zoning Designation



**Exhibit A**  
**Legal Description**  
**109<sup>th</sup> & Federal Blvd.**

Description for the Ten Eyck Parcel:

A tract of land located in the Northeast Quarter of Section 8, Township 2 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, City of Westminster, County of Adams, State of Colorado, being more particularly described as follows:

Considering the West line of the Northeast Quarter of said Section 8 as bearing, South 00°28'38" East, from an aluminum cap in a range box at the North Quarter corner of said Section 8 to an aluminum cap in a range box at the Southwest corner of said Northeast Quarter and with all bearings contained herein relative thereto:

Commencing at the North Quarter corner of said Section 8; thence along the West line of said Northeast Quarter, South 00°28'38" East, 1320.80 feet; thence, North 89°04'40" East, 50.00 feet to a point on the East Right-of-Way line of North Federal Boulevard and on the South line of Federal Square P.U.D., said point being the POINT OF BEGINNING; thence, continuing along said South line, North 89°04'40" East, 449.95 feet to the Northwest corner of Parcel 1 of the City of Westminster Golf Course and Open Space Areas; thence, along the West line of said Parcel 1, South 00°55'20" East, 754.94 feet; thence, South 39°13'24" West, 70.82 feet to a point on the North line of Parcel 3 of the City of Westminster Golf Course and Open Space Areas; thence, along said North line, North 80°46'36" West, 416.52 feet to a point on the East Right-of-Way line of North Federal Boulevard; thence, along said East line, North 06°11'16" West, 100.50 feet; thence, North 00°28'38" West, 300.00 feet; thence, North 05°15'32" East, 100.05 feet; thence, North 00°28'38" West, 236.18 feet to the Point of Beginning.

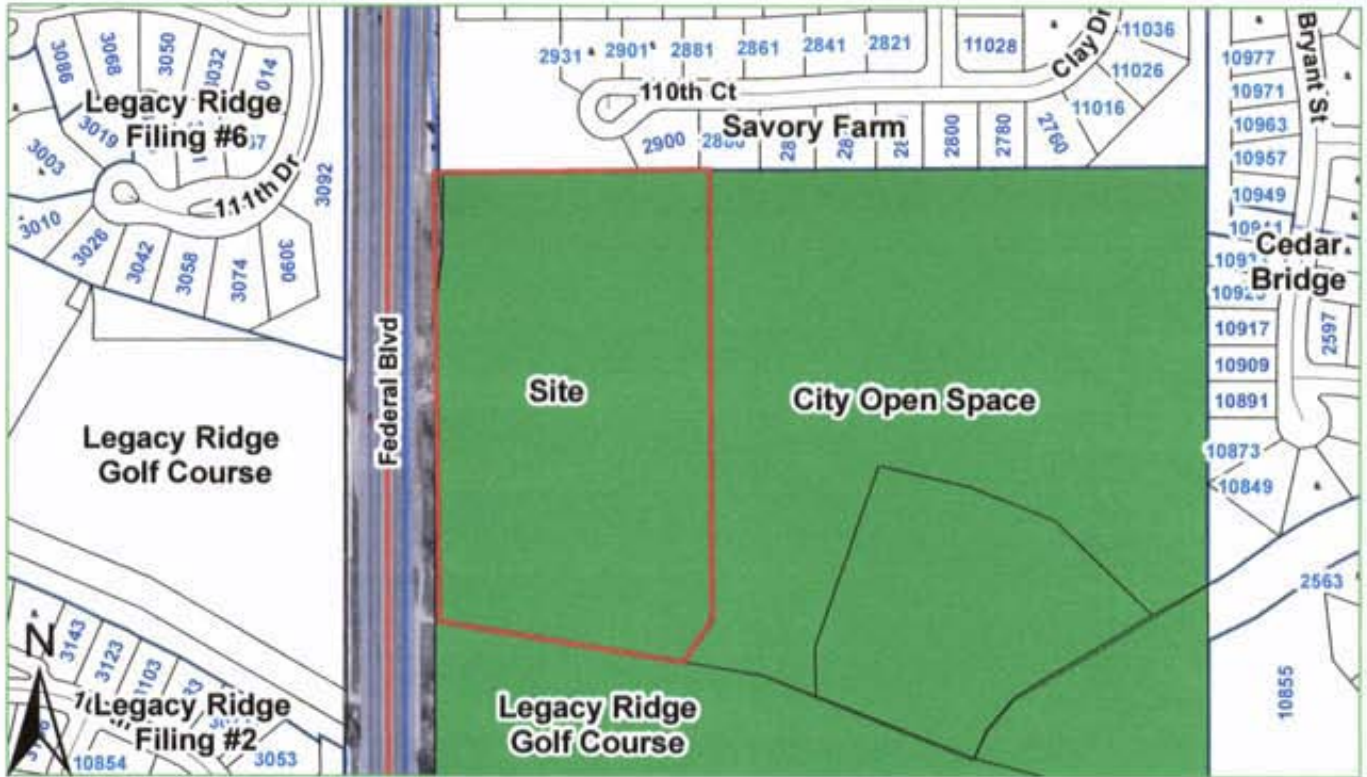
The above described tract contains 8.133 acres more or less and is subject to all easements, rights-of-ways and restrictions now on record of existing.

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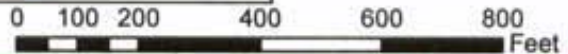
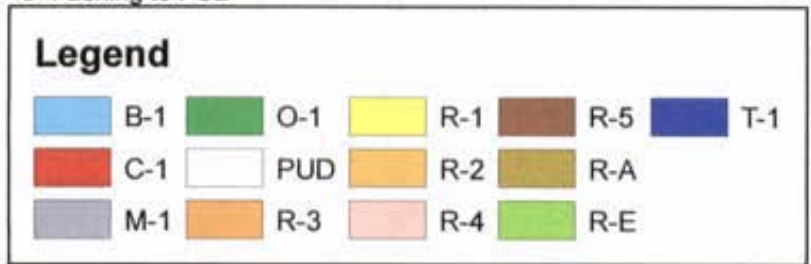
For tax purposes this property is known by the following Adams County Property Identification Number 171908100018 and Schedule Number R0033614. This property is also known as 10900 North Federal Boulevard, Westminster, Colorado 80030.

# Savory Farm Estates Property Zoning Designation

Exhibit B



Description of Change: O-1 zoning to PUD



# Savory Farm Estates New Zoning Designation





## Agenda Item 11 C&D

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Public Hearing and Action on Councillor's Bill No. 5 re an Amendment to the Comprehensive Land Use Plan for the North I-25 District Center

**Prepared By:** Patrick Caldwell, Planner II

**Recommended City Council Action**

1. Hold a public hearing.
2. Approve Councillor's Bill No. 5 on first reading amending the Comprehensive Land Use Plan for a subarea of the North I-25 District Center consisting of a map and related descriptive text. This recommendation is based on a finding that the proposed amendment will be in the public good and that:
  - a) There is justification for the proposed change and the Plan is in need of revision as proposed; and
  - b) The amendment is in conformance with the overall purpose and intent and the goals and policies of the Plan; and
  - c) The proposed amendment is compatible with existing and planned surrounding land uses; and
  - d) The proposed amendment would not result in excessive detrimental impacts to the City's existing or planned infrastructure systems.

**Summary Statement**

- The I-25 Corridor Study was completed in February 2002 and since that time the land uses planned for the corridor have become more defined.
- The Comprehensive Land Use Plan (CLUP) amendment will not change the North I-25 District Center land use designation. The underlying land use designations shown on a portion of a subarea plan will be adjusted and defined through both text and a sketch plan map for the North I-25 District Center.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

### **Planning Commission Recommendation**

The Planning Commission reviewed this proposal on February 12, 2008, and voted unanimously (6-0) to recommend that the City Council approve an amendment to the CLUP for a subarea of the North I-25 District Center consisting of a map and related descriptive text. No one spoke in favor or against this item at the public hearing.

### **Policy Issue**

Should the City Council approve a CLUP amendment for the North I-25 District Center adjusting descriptive text and the underlying land use designations on the parcels in a subarea plan that are south of the City limits at 150<sup>th</sup> Avenue, east of Huron Street, west of I-25 and north of the alignment of 134<sup>th</sup> Avenue?

### **Alternative**

Deny the CLUP amendment for the North I-25 District Center adjusting descriptive text and the underlying land use designations on the parcels in a subarea plan that are south of the City limits at 150<sup>th</sup> Avenue, east of Huron Street, west of I-25 and north of the alignment of 134<sup>th</sup> Avenue. This alternative is not supported by City staff because the proposed CLUP amendment is consistent with the most recent plans for the development of the corridor.

### **Background Information**

#### Nature of Request

On page VI-5 of the CLUP there is a statement that “the Plan should be reviewed, revised and updated on a regular basis, to respond to changing conditions of the City.” Some land uses and land use patterns have been proposed in a portion of a subarea of the north I-25 Corridor that were not envisioned when the I-25 Corridor Study was completed more than 5 years ago. The updated study for the subarea shows retail, mixed use, multi-family residential and business park uses laid out on a modified street grid. See the attached updated CLUP map of the subarea. The proposed land uses in the updated study conform to a much stronger grid alignment. Large medical uses and retail uses are proposed south of 144<sup>th</sup> Avenue and west of I-25. Residential use is now proposed east of Huron Street at approximately 147<sup>th</sup> Avenue. Traditional mixed uses will replace business park uses in an area that is generally south of 142<sup>nd</sup> Avenue and north of 138<sup>th</sup> Avenue and between Huron Street and Orchard Parkway.

The text describing the I-25 District Center on page IV-27 of the CLUP will be revised with this amendment. See the attached Comprehensive Land Use Plan text changes. The text is being revised to describe in more detail the proposed land uses and land use patterns that are now envisioned for this subarea of the I-25 District Center. Design concepts are listed, the open space concept and greenways are described, general development zones are noted and an accompanying vision for each zone is described. These text changes present an up-to-date description of the land use layout for this subarea.

#### Location

The site is located generally south of 150<sup>th</sup> Avenue, west of I-25, north of the approximate alignment of 134<sup>th</sup> Avenue and east of Huron Street. (Please see attached vicinity map).

#### Comprehensive Land Use Plan Amendment

A map showing the subarea plan is attached. The Westminster Municipal Code requires evidence that the amendment is in the public good and in overall compliance with the purpose and intent of the CLUP. Further, the CLUP provides four criteria to be used when considering a CLUP amendment. Staff has reviewed these criteria and has provided the following comments on each.

1. The proposed amendment must, “Demonstrate that there is justification for the proposed change, and that the Plan is in need of revision as proposed.” The proposed changes are a refinement of the original I-25 Corridor Study and reflect site constraints more closely than the 2002 Corridor Study.
2. The proposed amendment must, “Be in conformance with the overall purpose, intent, goals, and policies of the Plan.” Applicable goals are stated in Section III of the Community Goals and Policies section of the Plan. They include:
  - Goal A2 – Retain areas for commercial and industrial developments as significant revenue or employment generators on the remaining developable land.
  - Policy A2b – The majority of the existing vacant land in the City will be reserved for non-residential or mixed-use development in order to achieve a higher jobs per capita mix within the City with an emphasis on primary employment.
  - Goal D5 – Promote Transit Oriented Development (TOD) at key transit facilities in the City.
  - Policy D5a – Promote development of transit oriented mixed-use developments in appropriate locations, including Mandalay/Promenade, Westminster Center, South Westminster, and 140<sup>th</sup> and I-25 (North I-25 District Center).
  - Policy D5c – Transit Oriented Developments shall be planned to include a mix of appropriate uses including moderate to higher density residential, employment generating uses, and regional conveniences and specialty commercial uses.
  - Goal E1 – Increase employment opportunities through the development of easily accessible, well-designed and planned light industrial, office research, and other employment centers.
  - Policy E1a – Continue programs to retain and attract new businesses and plan for sufficient strategically located land for new employment centers.
  - Goal H4 – Enhance the City’s open space system to preserve and protect natural areas, vistas and view corridors, and to complete the open space and trail system.
  - Policy H4b – Continue to develop Big Dry Creek and tributary streams as the “spine” of a comprehensive network of trails linking parks, major open spaces, recreational facilities, and other focal points throughout the City.
  - Goal J1 – Plan and build the City’s gateways and streets as attractive public places.
  - Policy J1c – Apply enhancement techniques and improvements on the highest priority travel corridors.
  - Goal J5 – New developments shall incorporate natural terrain features in their design.
  - Policy J5a – Higher intensity/density developments should be located on relatively flat terrain. Steeper terrain should be developed as low density residential uses.

Based upon these goals and policies, staff has found this proposed amendment to be in conformance with the overall purpose, intent, goals, and policies of the Plan.

3. The proposal must, “Be compatible with existing and surrounding land uses.” To the east is I-25 and the City of Thornton. Land uses in Thornton are similar to those proposed in the Westminster I-25 corridor. To the south is City open space and the City’s wastewater treatment facility. Existing and proposed retail is screened from the City open space and treatment facilities, but a pedestrian network through the retail developments will connect to the existing and proposed trails in the City open space. Most of the land uses to the west of Huron Street are single family detached housing. The recently completed widening of Huron Street included 8 foot tall privacy fences, some frontage roads and a shifting of the Huron Street alignment to the east to increase the separation of the non-residential uses from the residential uses. Retail uses are proposed for the west side of Huron Street at 136<sup>th</sup> Avenue (south side of 136<sup>th</sup> is Westminster and the north side is Broomfield). A high density residential use is proposed near the north side of the North I-25 District Center.

4. The proposal must, “Not result in detrimental impacts to the City’s existing or planned infrastructure or provide measures to mitigate such impacts to the satisfaction of the City.” Development in accordance with the CLUP will have impacts, but these are likely to be minimal because the City has invested in major road and utility improvements in the north I-25 corridor in anticipation of the future development. In the past five years the City has coordinated new interchanges at both 144<sup>th</sup> Avenue and at 136<sup>th</sup> Avenue with the City of Thornton and with adjacent landowners. Major widening of 136<sup>th</sup> and 144<sup>th</sup> Avenues has been completed. Huron Street has been widened and landscaped and traffic signals have been installed at several locations. The City’s potable and reclaimed water and sanitary sewer lines have been installed and sized to accommodate the development anticipated in the CLUP in conjunction with the road improvements. Drainage improvements have been installed for existing development and future drainage improvements have been reviewed for the corridor and will be installed as development occurs.

Public Notification

Westminster Municipal Code 11-5-13 requires the following three public notification procedures:

- **Published Notice:** Notice of public hearings scheduled before Planning Commission shall be published and posted at least 10 days prior to such hearing and at least four days prior to City Council public hearings. Notice was published in the Westminster Window on February 14, 2008.
- **Property Posting:** Notice of public hearings shall be posted on the property with one sign in a location reasonably visible to vehicular and pedestrian traffic passing adjacent to the site. Signs were posted on the property on February 14, 2008.
- **Written Notice:** At least 10 days prior to the date of the public hearing, the applicant shall mail individual notices by first-class mail to property owners and homeowner’s associations registered with the City within 300 feet of the subject property. The City, as applicant mailed the required notices on January 31, 2008.

Applicant

City of Westminster  
 4800 West 92<sup>nd</sup> Avenue  
 Westminster, Colorado 80031

Surrounding Land Use and Comprehensive Land Use Plan Designation

<b>Development Name</b>	<b>Zoning</b>	<b>CLUP Designation</b>	<b>Use</b>
North: City and County of Broomfield	N/A	Open Land and Transitional Residential in Broomfield	Agricultural, Drainageway and Residential
West: Unincorporated Adams County; Cheyenne Ridge Subdivision, Huntington Trails Subdivision, and Lexington Estates Subdivision (residential); City and County of Broomfield; and Quail Crossing retail	PUD	R-1, R-2.5 and R-3.5 Residential; Private Parks/Open Space; and Retail Commercial	Residential, Vacant, Private Open Space
East: Interstate 25 and Thornton	N/A	N/A	Interstate Highway
South: Big Dry Creek Wastewater and Reclaimed Water Treatment Facility	PUD	Public/Quasi Public	City Wastewater Facility and City Trails

Site Plan Information

This CLUP amendment anticipates the development of the I-25 Corridor and does not propose any specific site plan or buildings. Each new development will require a Preliminary Development Plan and/or Official Development Plan in which traffic, site design, landscape design, public or school land dedication, parks, trails, open space, signage, lighting and other elements of development are addressed.

Service Commitment Category

None at this time. Service Commitments will be made in accordance with the City's Growth Management Program.

Referral Agency Responses

No referrals to other agencies were made with this amendment. Referrals will be made with subsequent Preliminary and Official Development Plans.

Neighborhood Meeting and Public Comments

A neighborhood meeting announcement with an information packet was sent to all land owners and neighborhood organizations within 300 feet of the proposed subarea. The neighborhood meeting was held January 29, 2008. Two nearby residents attended. They were concerned with additional traffic and additional traffic signals on Huron Street.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Vicinity Map
- CLUP Map of the Subarea
- Comprehensive Land Use Plan Text
- CLUP Ordinance
  - Exhibit A (Comprehensive Land Use Plan Map of the North I-25 District Center)
  - Exhibit B (New Descriptive Text and Existing Text/Map that is to be Replaced)
- Criteria and Standards for Land Use Applications



BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **5**

SERIES OF 2008

INTRODUCED BY COUNCILLORS

**Dittman - Major**

**A BILL  
FOR AN ORDINANCE AMENDING THE WESTMINSTER  
COMPREHENSIVE LAND USE PLAN FOR THE NORTH I-25 DISTRICT CENTER**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The City Council finds:

a. That an application for an amendment to the Westminster Comprehensive Land Use Plan has been prepared by the City of Westminster for approval pursuant to W.M.C. §11-4-16(D), for the properties shown in color on the map in attached Exhibit A, and for the accompanying descriptive text in Exhibit B, both exhibits incorporated herein by reference, requesting a change in the proposed uses for the North I-25 District Center, and requesting a change in the descriptive text for the properties in a subarea of the North I-25 District Center. The subarea of approximately 600 acres is bounded on the north by the alignment of 150<sup>th</sup> Avenue at the Broomfield City limit. The west boundary is Huron Street and the east boundary is Interstate 25. The south boundary is at approximately the alignment of 134<sup>th</sup> Avenue (the south boundary of the Interchange Business Center PDP that contains the Wal-Mart site).

b. That such application has been referred to the Planning Commission, which body held a public hearing thereon on February 12, 2008, after notice complying with W.M.C. §11-4-16(B) and has recommended approval of the requested amendments.

c. That notice of the public hearing before Council has been provided in compliance with W.M.C. § 11-4-16(B) and the City Clerk has certified that the required notices to property owners were sent pursuant to W.M.C. §11-4-16(D).

d. That Council, having considered the recommendations of the Planning Commission, has completed a public hearing and has accepted and considered oral and written testimony on the requested amendments.

e. That the requested amendments will further the public good and will be in compliance with the overall purpose and intent of the Comprehensive Land Use Plan, particularly that the amendments will more accurately show proposed and approved land use patterns in this subarea of the North I-25 District Center, and that the amendments will more accurately describe the City's updated vision for this subarea of the North I-25 District Center.

Section 2. The City Council approves the requested amendments and authorizes City Staff to make the necessary changes to the text of the Westminster Comprehensive Land Use Plan as reflected in the attached Exhibits A and B.

Section 3. Severability: If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 4. This ordinance shall take effect upon its passage after second reading.

Section 5. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED  
PUBLISHED this 25 of February, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED  
this 17th day of March, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney's Office

## Criteria and Standards for Land Use Applications

### *Comprehensive Land Use Plan Amendments*

- The owner/applicant has “the burden of proving that the requested amendment is in the public good and in compliance with the overall purpose and intent of the Comprehensive Land Use Plan...” (WMC 11-4-16(D.4)).
- Demonstrate that there is justification for the proposed change and that the Plan is in need of revision as proposed;
- Be in conformance with the overall purpose, intent, and policies of the Plan;
- Be compatible with the existing and surrounding land uses; and
- Not result in excessive detrimental impacts to the City’s existing or planned infrastructure systems, or the applicant must provide measures to mitigate such impacts to the satisfaction of the City (Page VI-5 of the CLUP).

### *Approval of Planned Unit Development (PUD), Preliminary Development Plan (PDP) and Amendments to Preliminary Development Plans (PDP)*

11-5-14: STANDARDS FOR APPROVAL OF PLANNED UNIT DEVELOPMENTS, PRELIMINARY DEVELOPMENT PLANS AND AMENDMENTS TO PRELIMINARY DEVELOPMENT PLANS: (2534)

(A) In reviewing an application for approval of a Planned Unit Development and its associated Preliminary Development Plan or an amended Preliminary Development Plan, the following criteria shall be considered:

1. The Planned Unit Development (PUD) zoning and the proposed land uses therein are in conformance with the City's Comprehensive Plan and all City Codes, ordinances, and policies.
2. The PUD exhibits the application of sound, creative, innovative, and efficient planning principles.
3. Any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Preliminary Development Plan.
4. The PUD is compatible and harmonious with existing public and private development in the surrounding area.
5. The PUD provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
6. The PUD has no significant adverse impacts upon existing or future land uses nor upon the future development of the immediate area.
7. Streets, driveways, access points, and turning movements are designed in a manner that promotes safe, convenient, and free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and pedestrian traffic.
8. The City may require rights-of-way adjacent to existing or proposed arterial or collector streets, any easements for public utilities and any other public lands to be dedicated to the City as a condition to approving the PDP. Nothing herein shall preclude further public land dedications as a condition to ODP or plat approvals by the City.

9. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with overall master plans.
10. Performance standards are included that insure reasonable expectations of future Official Development Plans being able to meet the Standards for Approval of an Official Development Plan contained in section 11-5-15.
11. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an application for Planned Unit Development zoning, a Preliminary Development Plan or an amendment to a Preliminary Development Plan.

### ***Zoning or Rezoning to a Zoning District Other Than a Planned Unit Development (PUD)***

#### **11-5-3: STANDARDS FOR APPROVAL OF ZONINGS AND REZONINGS: (2534)**

(A) The following criteria shall be considered in the approval of any application for zoning or rezoning to a zoning district other than a Planned Unit Development:

1. The proposed zoning or rezoning is in conformance with the City's Comprehensive Plan and all City policies, standards and sound planning principles and practice.
2. There is either existing capacity in the City's street, drainage and utility systems to accommodate the proposed zoning or rezoning, or arrangements have been made to provide such capacity in a manner and timeframe acceptable to City Council.

### ***City Initiated Rezoning***

(B) The City may initiate a rezoning of any property in the City without the consent of the property owner, including property annexed or being annexed to the City, when City Council determines, as part of the final rezoning ordinance, any of the following:

1. The current zoning is inconsistent with one or more of the goals or objectives of the City's Comprehensive Land Use Plan.
2. The current zoning is incompatible with one or more of the surrounding land uses, either existing or approved.
3. The surrounding development is or may be adversely impacted by the current zoning.
4. The City's water, sewer or other services are or would be significantly and negatively impacted by the current zoning and the property is not currently being served by the City.

### ***Official Development Plan (ODP) Application***

#### **11-5-15: STANDARDS FOR APPROVAL OF OFFICIAL DEVELOPMENT PLANS AND AMENDMENTS TO OFFICIAL DEVELOPMENT PLANS: (2534)**

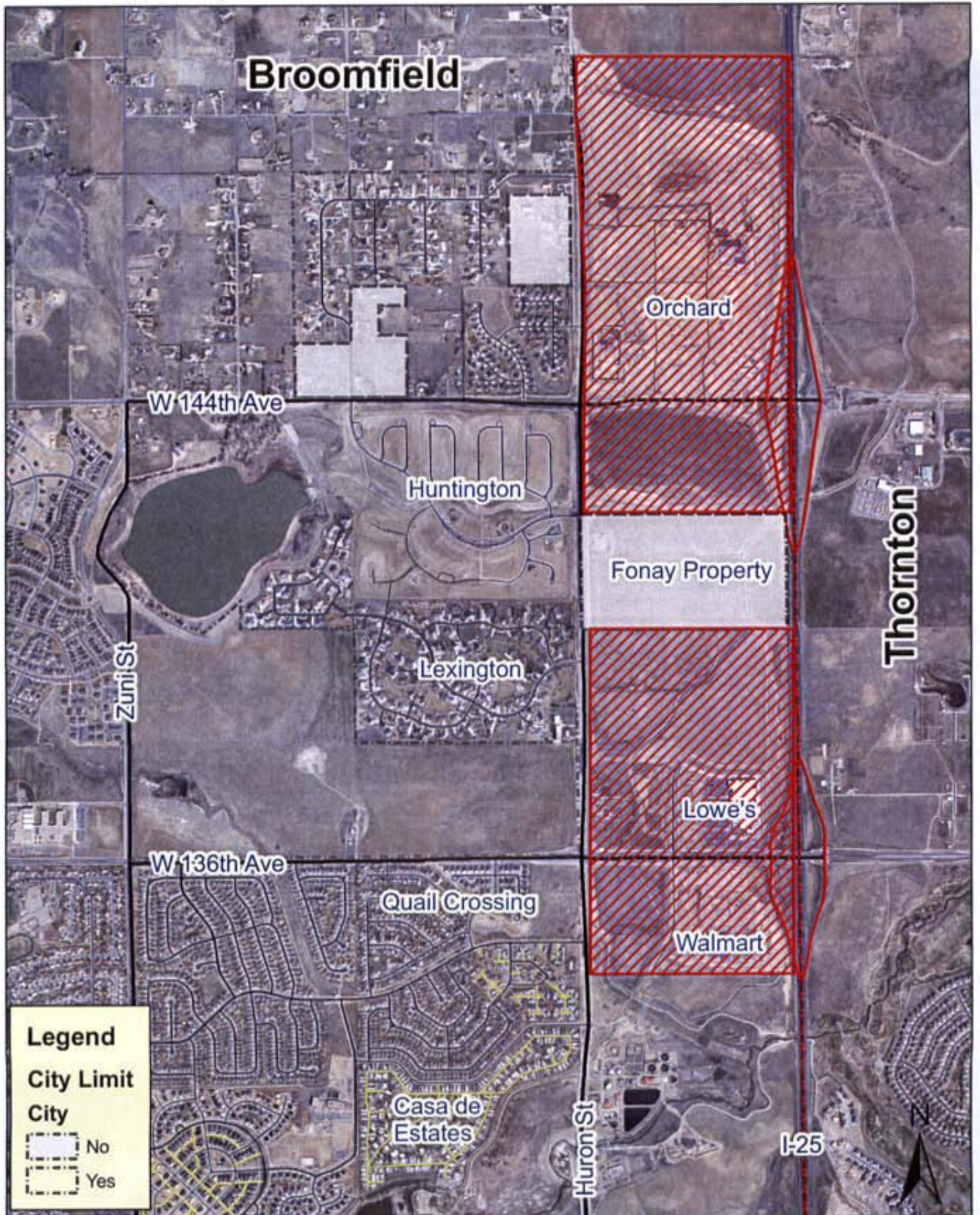
(A) In reviewing an application for the approval of an Official Development Plan or amended Official Development Plan the following criteria shall be considered:

1. The plan is in conformance with all City Codes, ordinances, and policies.
2. The plan is in conformance with an approved Preliminary Development Plan or the provisions of the applicable zoning district if other than Planned Unit Development (PUD).
3. The plan exhibits the application of sound, creative, innovative, or efficient planning and design principles.
4. For Planned Unit Developments, any exceptions from standard code requirements or limitations are warranted by virtue of design or special amenities incorporated in the development proposal and are clearly identified on the Official Development Plan.

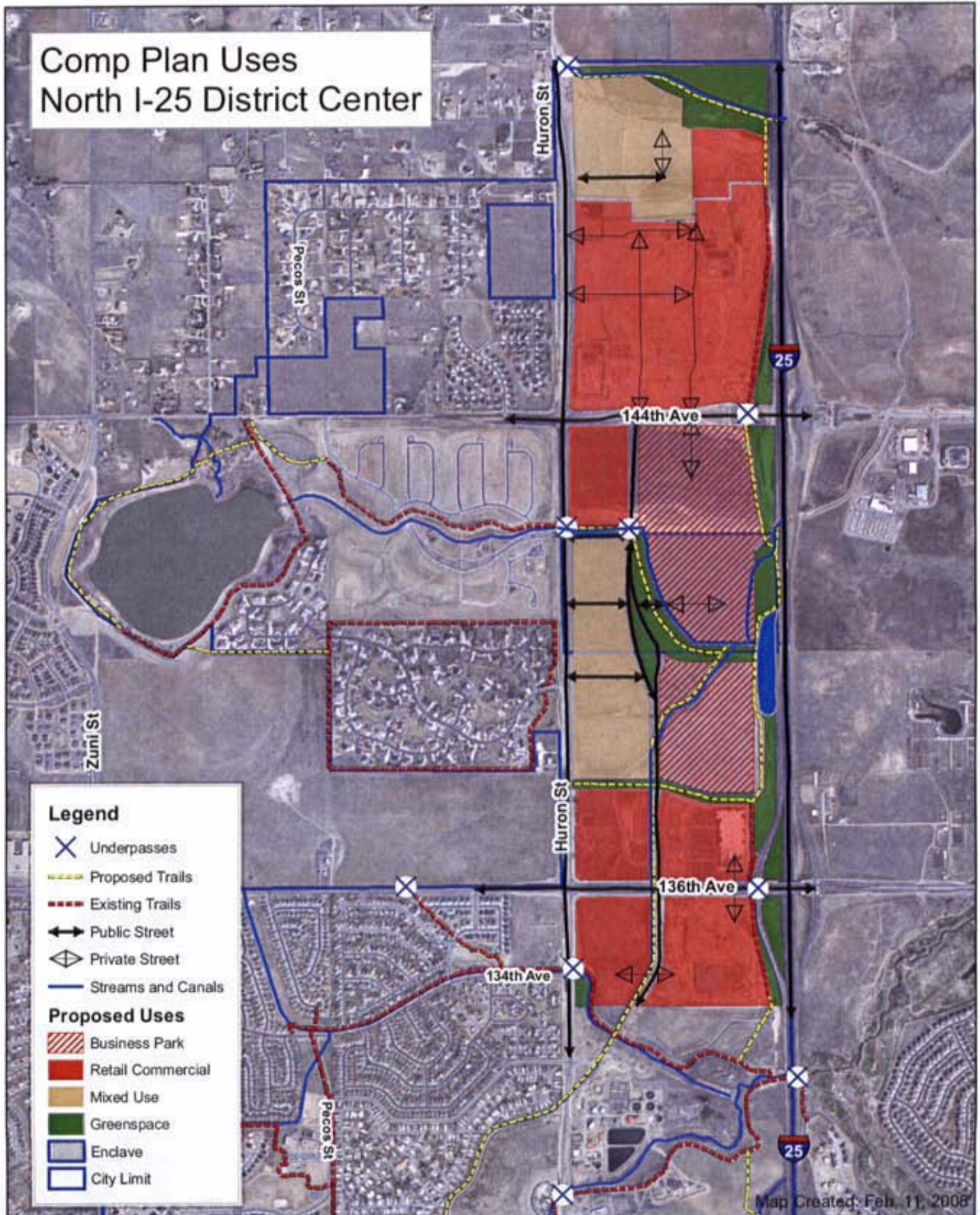
5. The plan is compatible and harmonious with existing public and private development in the surrounding area.
6. The plan provides for the protection of the development from potentially adverse surrounding influences and for the protection of the surrounding areas from potentially adverse influence from within the development.
7. The plan has no significant adverse impacts on future land uses and future development of the immediate area.
8. The plan provides for the safe, convenient, and harmonious grouping of structures, uses, and facilities and for the appropriate relation of space to intended use and structural features.
9. Building height, bulk, setbacks, lot size, and lot coverages are in accordance with sound design principles and practice.
10. The architectural design of all structures is internally and externally compatible in terms of shape, color, texture, forms, and materials.
11. Fences, walls, and vegetative screening are provided where needed and as appropriate to screen undesirable views, lighting, noise, or other environmental effects attributable to the development.
12. Landscaping is in conformance with City Code requirements and City policies and is adequate and appropriate.
13. Existing and proposed streets are suitable and adequate to carry the traffic within the development and its surrounding vicinity.
14. Streets, parking areas, driveways, access points, and turning movements are designed in a manner promotes safe, convenient, promotes free traffic flow on streets without interruptions and in a manner that creates minimum hazards for vehicles and or pedestrian traffic.
15. Pedestrian movement is designed in a manner that forms a logical, safe, and convenient system between all structures and off-site destinations likely to attract substantial pedestrian traffic.
16. Existing and proposed utility systems and storm drainage facilities are adequate to serve the development and are in conformance with the Preliminary Development Plans and utility master plans.
17. The applicant is not in default or does not have any outstanding obligations to the City.

(B) Failure to meet any of the above-listed standards may be grounds for denial of an Official Development Plan or an amendment to an Official Development Plan.

# Vicinity Map - I-25 Corridor Study Area

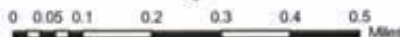


# Comp Plan Uses North I-25 District Center



Map Created: Feb. 11, 2008

*This plan is conceptual, to assist in defining the City's vision for the North I-25 District Center. No changes to the Comprehensive Plan or to the road system will be required for minor modifications to the uses shown.*



The City has made every reasonable effort to obtain and maintain this data as accurately as possible. However, the data and maps are provided without warranty of any kind, either expressed or implied. The City does not guarantee the accuracy, completeness, timeliness, or correct sequence of the data and hereby expressly disclaims any responsibility for the validity and accuracy of any data and information.

### *North I-25 District Center*

The area bounded by Huron Street, I-25, 134<sup>th</sup> Avenue and 150<sup>th</sup> Avenue is planned as a district center with a mix of employment, retail, and residential uses with natural open spaces, drainage areas and trails. High quality architecture and landscaping on all new development will assist in further defining this area.

Design concepts for the entire area include:

- building forms enclosing and defining parking fields;
- building forms defining the edges of Orchard Parkway, Huron Street and other new public streets;
- building forms following a "gradient," with the smallest scale buildings closest to Huron Street.
- buildings with double fronts – facing both the street and parking fields;
- publicly accessible open spaces arranged to be visible landmarks as well as functional spaces.

The I-25 District Center is physically characterized by its landform, a gently sloping "V" shaped valley between high points north of 144<sup>th</sup> (The Orchard retail center) and south of 128<sup>th</sup> (Adams 12 middle and high schools). In the center is the main business/research employment center with its mixed-use buildings.

This district center will draw its distinct regional identity from a significant joint drainage and open space system woven throughout the developed spaces and tied into the City's trail system by a series of smaller private parks, trails, and sidewalks. This open space system, unique within the district center, is a result of its location at the low point of the area, receiving drainage from a large watershed including McKay Lake and the storm outflow from the adjacent developed areas.

The open space system is configured as a three-fingered set of spaces that gather and direct flowages from west to east towards

the continuous green belt along the eastern edge of the district center abutting I-25.

North of 144<sup>th</sup> Avenue will be the mixed-use regional "lifestyle center," The Orchard. Set on approximately 215 acres and extending northward from 144<sup>th</sup> Avenue to the northern city limit, the project will feature over 1.1 million square feet of retail and office and residential uses. Reflecting a "prairie style" design, the center is expected to integrate big-box retail users and intimate, pedestrian-scale shopping and gathering areas into an area with regional appeal.

At the midpoint of the entire district center will be the landscaped corridor of Orchard Parkway between 136<sup>th</sup> and 144<sup>th</sup> Avenues. This collector street provides a consistent identity element and facilitates movement through the entire area. The Parkway's most important landmark feature is an urban park that passes through the mixed-use core of the main business/research employment center.

The vision for this area of the district center may feature a small street-oriented "new-urbanist style" residential mixed-use development with the provision of street-oriented retail/office and loft-style urban apartments and condominiums.

The vision includes the following developmental zones:

1. Huron Street Arterial Pads. This zone is located at the southeast corner of Huron Street and 144<sup>th</sup> Avenue west of Orchard Parkway. Huron Street should have a rhythm of freestanding buildings of 1-2 stories, served by surface parking. The buildings should embody a very high quality of architectural design reflecting their prescribed uses and a quality of landscaping consistent with that of the expanded and improved Huron Street and the larger developments of which they are a part. They should reflect

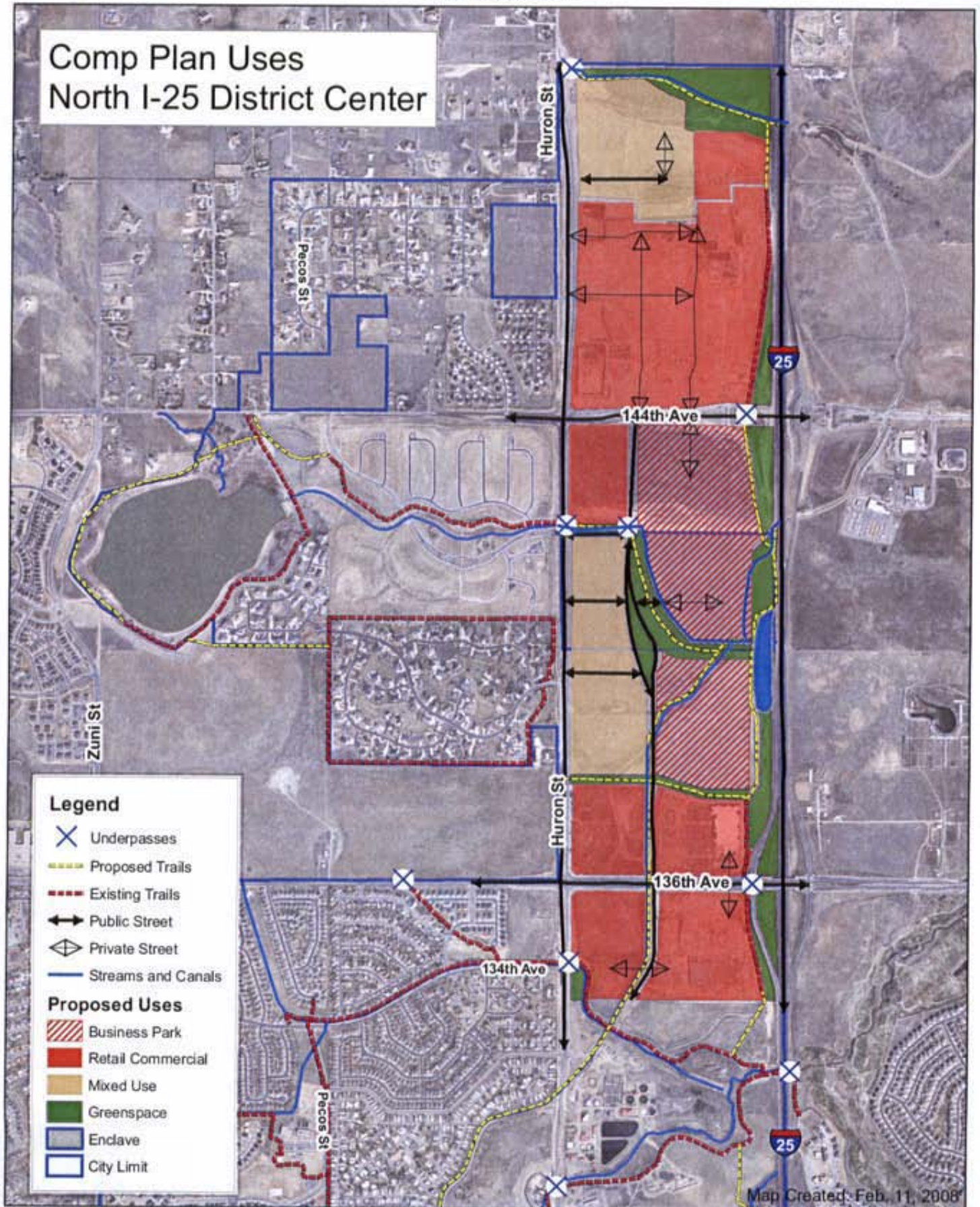


- consistent design themes, and not a typical disjointed "pad" style of development.
2. Orchard Parkway West: The buildings between Huron Street and Orchard Parkway and south of the Huron Street retail zone should be developed as a part of a mixed use employment/office area with a limited amount of residential and retail secondary uses. All buildings in this zone should be street-defining (i.e.: built parallel to and within 15-25 feet of the curb along Orchard Parkway) and should have two fronts – one to Orchard and one to their surface parking areas. Buildings should not be allowed to be developed in this area as "island" architecture surrounded by parking. Instead, they should develop with consistent streetscapes, and they should have service access at the gaps between buildings to further reinforce the "two front" building type concept. These buildings should be narrower footprints and can be taller proportionally (2-6 stories) to take advantage of mountain views and the interior open space and trail system.
  3. Orchard Parkway East. This area is located between I-25 and Orchard Parkway south of the Orchard Ponds campus. These buildings should also be street-defining with mixed uses (office and retail). The vision is for these buildings to have larger floor plates (20-25,000 SF) suited to a wide range of tenants, while maintaining a general height massing, and articulation and high quality architecture corresponding with the Orchard Parkway West buildings. The Bull Canal is also intended to be reconstructed in this area to align with Orchard Parkway in a more natural fashion along with a parallel pedestrian trail.
  4. Orchard Ponds Campus: The zone between Orchard Parkway and I-25 will take advantage of the water-oriented open space and trail system and the high degree of long-range visibility associated with travelers on the I-25 corridor. In this zone large landmark Class A general office buildings, hotel users and medical offices of 40-50,000 SF floor plates and 300,000 GSF areas are suitable and achievable in this area with the provision of some structured parking.
  5. "Known" projects: North of 144<sup>th</sup> Avenue is The Orchard Town Center lifestyle center, with the first phases opened in the second half of 2006. The mixed-use center will contain over 1 million SF of retail space and approximately 500 units of housing in a prairie-style pedestrian format.
  6. Lastly, both north and south of 136<sup>th</sup> Avenue are big-box anchored retail projects with commercial out-parcels. The concentrated retail areas fronting along 136<sup>th</sup> Avenue are expected to maintain the very high quality of architecture already established by the initial projects. Predominant masonry, significant building variation in height and depth, exceptional landscaping including mature tree preservation and the incorporation of public art should be hallmarks of all projects in the corridor, with special attention to detail paid to the retail sites on 136<sup>th</sup> Avenue.

Certain design elements or themes should carry through the entire North I-25 corridor. These include retaining and maintaining healthy mature trees, a consistent streetscape, the continuation of a pedestrian trail parallel to I-25, Bull Canal greenery and the incorporation of public art using the Commercial Design Guidelines as a minimum standard.

# Exhibit A

## Comp Plan Uses North I-25 District Center



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## EXHIBIT B

### *North I-25 District Center*

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## EXHIBIT B

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- Certain design elements or themes should carry through the entire North I-25 corridor. These include retaining and maintaining healthy mature trees, a consistent streetscape, the continuation of a pedestrian trail parallel to I-25, Bull Canal greenery and the incorporation of public art using the Commercial Design Guidelines as a minimum standard.

**I-25 District Center**

The area east of Huron Street and north of 124<sup>th</sup> Avenue is planned as a district center with a mix of employment, retail, and residential uses, with ample open space, trails, and high quality design. The District Center is subject to an Intergovernmental Agreement (IGA) between Thornton and Westminster. It encompasses approximately 500 acres, not including unincorporated lands within the area's boundaries. The City has prepared a specific plan for the area which outlines the location of future interchanges at 144<sup>th</sup> Avenue and 136<sup>th</sup> Avenue, and describes the mix of transit-oriented land uses (the I-25 Corridor Study). The District Center will be served by a network of roadways, including improvements to Huron Street, 128<sup>th</sup> Avenue, 136<sup>th</sup> Avenue, and 144<sup>th</sup> Avenue, as well as a continuous north-south collector street. As described in that plan, the concept for the I-25 District Center is to serve as an attractive northern "gateway" for the City.

The northern portion of the District Center, located north of 144<sup>th</sup> Avenue, relates to the regional influences of I-25 and a planned interchange at 144<sup>th</sup> Avenue, the Northwest Parkway, and E-470. Planned land uses include regional retail or employment and open space.

The central portion of the District Center, bounded by 136<sup>th</sup> and 144<sup>th</sup> Avenues, is planned for a mix of employment, mixed-use, and retail development, with a planned transit-oriented development node centered between the two planned interchanges and a park-and-ride. This area may also include some residential units as part of the transit-oriented development area. The southern portion of the District Center, located between 136<sup>th</sup> Avenue and the Park Centre development, is planned for a mix of specialty retail, public uses, and employment.

The land uses shown on the North I-25 Concept Plan (as shown to the right) are more detailed than what is shown in the Comprehensive Land Use Plan. Nevertheless, the uses shown govern.





## Agenda Item 11 E&F

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Public Hearing and Resolution No. 10 re Application to Designate the Margaret O’Gorman House (8198 Irving Street) as a Local Historic Landmark

**Prepared By:** Vicky Bunsen, Community Development Programs Coordinator

**Recommended City Council Action**

1. Hold a public hearing on the application to designate the Margaret O’Gorman House as a local historic landmark.
2. Adopt Resolution No. 10 designating the Margaret O’Gorman House at 8198 Irving Street as a local historic landmark pursuant to Section 11-13-5 of the Westminster Municipal Code.

**Summary**

- An application has been prepared to designate the Margaret O’Gorman House as a local historic landmark.
- The Margaret O’Gorman House is located at 8198 Irving Street. It was built in 1910, is 98 years old, and is an example of a housing style associated with early 20<sup>th</sup> Century Westminster.
- The Historic Landmark Board recommends that the Margaret O’Gorman House be designated as a local historic landmark.

**Expenditure Required:** \$0

**Source of Funds:** N/A

## **Policy Issue**

Should the Margaret O’Gorman House, located at 8198 Irving Street and owned by Linda Sweizer, be designated a local historic landmark?

## **Alternatives**

1. Do not designate the site as a local historic landmark.
2. Modify the list of features that should be designated as contributing to the historic significance of the house.

Staff does not recommend holding off on the designation of the Margaret O’Gorman House as a local historic landmark. The home contributes to the historic context of the neighborhood. Protection of the structure and its architecture will be beneficial to the beauty and value of adjacent public and private properties.

## **Background Information**

The Margaret O’Gorman House was built in 1910. It is nominated for designation as a Westminster historic landmark based on the following criteria in W.M.C. section 11-13-5:

1. The O’Gorman House represents a style particularly associated with the Westminster area and is at least 50 years old, and
2. The O’Gorman House exemplifies the educational heritage of Westminster because it served as a boarding house for Westminster University.
3. The O’Gorman House represents an association with a notable person in Westminster’s history, Margaret O’Gorman.
4. The O’Gorman House represents specific elements of an architectural style in Westminster.
5. The O’Gorman House represents an association with a notable builder in early Westminster, Frank Day.
6. The O’Gorman House is an example of a house built from a Sears kit.

## **Architectural Description:**

The O’Gorman House is built in the Victorian/Edwardian architectural style. A simplified example of a Queen Anne residence, sometimes referred to as a "Princess Anne," the 45’ by 25’ house has a steeply pitched 12/12 gable-front roof, with enclosed eaves and end returns. On the southwest corner, there is a multi-sided tower with angled walls, featuring a cross-gabled roof with pedimented eaves; the tower’s rooflines are set below that of the main house. A full width, one-story hipped roof porch is on the front (west) elevation, and has turned spindle columns and narrow balusters. There is a three-sided bay window on the south, and a one-story, hipped roof addition on the rear, with wood steps leading to a rear door. Windows are 1/1 double hung with simple wood entablature surrounds. There are two interior brick chimneys.

The O’Gorman House was built in 1910 by contractor Frank Day. During the mid-twentieth century, the siding was covering with rolled shingle sheeting. A 2006 rehabilitation removed the asphalt siding and revealed original lap siding.

### **Historical Significance**

The 1910 O’Gorman House is significant for its architecture, its association with notable Westminster settlers, including Margaret O’Gorman and Frank Day, and its association with the history of education in Westminster.

Margaret O’Gorman and her mother came to town from Ridgeway, Colorado, because they had formerly lived in a college town in Missouri and liked the atmosphere. Built in 1910 by local contractor Frank Day for Margaret O’Gorman to house students from Westminster University, the house was built with a bathroom, which was unusual as there was no water system at the time. Almost immediately after the first nine students moved in, one came down with smallpox. The other eight were moved to the president's home (Pattison Bungalow) while O’Gorman’s house was quarantined. However, the president's home was not finished and had no windows. One of the boys there caught a sore throat, and after moving back into O’Gorman's house, caught diphtheria. Everyone had to move back out again. Finally, Dr. Russell hung sheets all over the house and it was disinfected with formaldehyde, and the boarding house was again open for business.

Margaret and her mother carried water from the university to the boarding house each day. In 1911 she was one of the signers of the petition to incorporate Harris. She believed that incorporation would lead to a water system that would serve her house.

The house is significant in the area of education for its role in providing housing for the newly opened Westminster University. Housing was extremely scarce at this time, due to its distance from Denver and as the Village of Harris was extremely small. A women's dormitory was planned, but the male students were responsible for finding their own housing. O’Gorman's boarding house was the primary source of housing for male students at Westminster University. In the area of architecture, it is significant as a rare (for Westminster) example of a Princess Anne house, with its steeply pitched roof, modified corner tower, and full width front porch. These simple details reflect the economic status of its owner and its role as a boarding house.

The O’Gorman House was found to be field-eligible for listing on the National Register of Historic Places in 2007 and would also contribute to a local or national historic district in the neighborhood if one were established.

### **Compliance with Westminster Municipal Code**

The owner of the Margaret O’Gorman House, Linda Sweizer, nominated the home and assisted with the preparation of the application. The Westminster Municipal Code requires an application to include the following content:

1. Description of the characteristics of the proposed historic landmark that justify its designation pursuant to this chapter,
2. A description of the particular features that should be preserved, and
3. A legal description of the location and boundaries of the historic property.

In compliance with Westminster Municipal Code, the application provides the name, location, legal description, and owner of the proposed landmark. It further provides a statement of significance with information to support the following criteria for designation:

1. The O’Gorman House represents a style particularly associated with the Westminster area and is at least 50 years old, and
2. The O’Gorman House exemplifies the educational heritage of Westminster because it served as a boarding house for Westminster University.



3. The O’Gorman House represents an association with a notable person in Westminster’s history, Margaret O’Gorman.
4. The O’Gorman House represents specific elements of an architectural style in Westminster.
5. The O’Gorman House represents an association with a notable builder in early Westminster, Frank Day.
6. The O’Gorman House is an example of a house built from a Sears kit.

Notice of the February 25, 2008, public hearing was published in the Westminster Window on February 21, 2008, which is at least four days prior to the public hearing. The property was posted by City Staff before February 22, 2007. The application was referred to the Westminster Historical Society on January 31, 2008, as required by the Westminster Municipal Code.

Section 11-13-7(A)(3) requires the Director of Community Development to review an application in the following respects: (a) its relationship to the comprehensive plan; (b) the effect of the designation on the surrounding neighborhood; (c) the criteria set forth in this chapter; and (d) such other planning considerations as may be relevant to the proposed designation.

The landmark designation should be beneficial to the neighborhood because designation will help the neighborhood understand the history of the area and will protect the defining architectural characteristics of the house, thereby supporting the historic and residential character of the neighborhood. Staff believes this application meets the criteria set forth in the ordinance.

### **City Council Findings**

The City Council needs to consider the following issues:

1. Does this house meet the ordinance requirements for historical significance justifying its designation as a local historic landmark?
2. What features of the house should be preserved in order to maintain the historical integrity of the house?
3. The Council’s decision must also include the name, location and legal description of the designated landmark.

### **Recommendations by the Historic Landmark Board**

The Historic Landmark Board recommends to the Westminster City Council that the Margaret O’Gorman House be designated as a local historic landmark pursuant to Section 11-13-5 of the Westminster Municipal Code. The architectural features that they recommend be preserved are described in their attached resolution. These features have been included in the proposed City Council resolution, also attached.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments:

- Proposed Resolution
- Historic Landmark Board Resolution

RESOLUTION

RESOLUTION NO. **10**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**Briggs - Kaiser**

**A RESOLUTION  
TO DESIGNATE THE MARGARET O’GORMAN HOUSE  
AS A LOCAL HISTORIC LANDMARK**

WHEREAS, the Margaret O’Gorman House is historically significant because:

1. The O’Gorman House represents a style particularly associated with the Westminster area and is at least 50 years old, and
2. The O’Gorman House exemplifies the educational heritage of Westminster because it served as a boarding house for Westminster University.
3. The O’Gorman House represents an association with a notable person in Westminster’s history, Margaret O’Gorman.
4. The O’Gorman House represents specific elements of an architectural style in Westminster.
5. The O’Gorman House represents an association with a notable builder in early Westminster, Frank Day.
6. The O’Gorman House is an example of a house built from a Sears kit.

WHEREAS, the City Staff has caused the historical significance of the property to be documented and applied to the Historic Landmark Board for a recommendation as to whether the property should be designated as a local historic landmark; and

WHEREAS, the Historic Landmark Board adopted its Resolution 2008-001 in which the Board finds that the Margaret O’Gorman House is historically significant and designates the features that the Board recommends should be preserved,

NOW, THEREFORE, the City Council of the City of Westminster resolves that:

1. The Board recommends to the Westminster City Council that the Margaret O’Gorman House be designated as a local historic landmark pursuant to Section 11-13-5 of the Westminster Municipal Code.
2. Description of features that should be preserved:  
The house has a steeply pitched 12/12 gable-front roof, with enclosed eaves and end returns. On the southwest corner, there is a multi-sided tower with angled walls, featuring a cross-gabled roof with pedimented eaves; the tower's rooflines are set below that of the main house. A full width, one-story hipped roof porch is on the front (west) elevation, and has turned spindle columns and narrow balusters. There is a three-sided bay window on the south, and a one-story, hipped roof addition on the rear, with wood steps leading to a rear door. Windows are 1/1 double hung with simple wood entablature surrounds. There are two interior brick chimneys. It has original lap siding.
3. The legal description and location of the property are:

**Address or location:** 8198 Irving Street  
Westminster, Colorado 80030

**Legal description:** Lots 1 & 2, Block 108, Westminster Subdivision,  
City of Westminster, Adams County, Colorado

**State of Colorado Resource No.:** 5AM 2063

**UTM coordinates:**

east 1,632,349.013 north 14,469,715.919 Feet  
NAD 27 UTM Zone 13N

east 1,632, 195.940 north 14,470,401.324 Feet  
NAD 83 UTM Zone 13N

PASSED AND ADOPTED this 25<sup>th</sup> day of February, 2008.

\_\_\_\_\_  
Nancy McNally, Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

RESOLUTION

RESOLUTION NO. 2008-001

INTRODUCED BY BOARD MEMBER

SERIES OF 2008

Bill Teter

WHEREAS, the Margaret O’Gorman House is historically significant because:

1. The O’Gorman House represents a style particularly associated with the Westminster area and is at least 50 years old, and
2. The O’Gorman House exemplifies the educational heritage of Westminster because it served as a boarding house for Westminster University.
3. The O’Gorman House represents an association with a notable person in Westminster’s history, Margaret O’Gorman.
4. The O’Gorman House represents specific elements of an architectural style in Westminster.
5. The O’Gorman House represents an association with a notable builder in early Westminster, Frank Day.
6. The O’Gorman House is an example of a house built from a Sears kit.

WHEREAS, the City Staff has caused the historical significance of the property to be documented and the owner has applied to this Board for a recommendation as to whether the property should be designated as a historic landmark,

NOW, THEREFORE, the Historic Landmark Board of the City of Westminster resolves that:

1. The Board recommends to the Westminster City Council that the Margaret O’ Gorman House be designated as a local historic landmark pursuant to Section 11-13-5 of the Westminster Municipal Code.
2. Description of features that should be preserved:

The house has a steeply pitched 12/12 gable-front roof, with enclosed eaves and end returns. On the southwest corner, there is a multi-sided tower with angled walls, featuring a cross-gabled roof with pedimented eaves; the tower’s rooflines are set below that of the main house. A full width, one-story hipped roof porch is on the front (west) elevation, and has turned spindle columns and narrow balusters. There is a three-sided bay window on the south, and a one-story, hipped roof addition on the rear, with wood steps leading to a rear door. Windows are 1/1 double hung with simple wood entablature surrounds. There are two interior brick chimneys. It has original lap siding.

3. The legal description and location of the property are:

**Address or location:** 8198 Irving Street  
Westminster, Colorado

**Legal description:** Lots 1 & 2, Block 108, Westminster Subdivision,  
City of Westminster, Adams County, Colorado

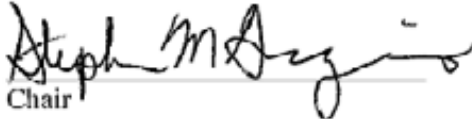
State of Colorado Resource No.: 5AM 2063

**UTM coordinates:**

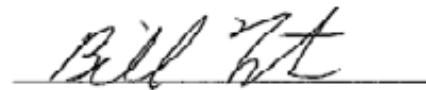
east 1,632,349.013 north 14,469,715.919 Feet  
NAD 27 UTM Zone 13N

east 1,632,195.940 north 14,470,401.324 Feet  
NAD 83 UTM Zone 13N

PASSED AND ADOPTED this 13<sup>th</sup> day of February, 2008.

  
Chair

ATTEST:

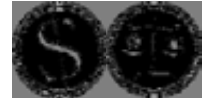




**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Public Hearing and Resolution No. 11 re Orchard Park Place North Metropolitan District

**Prepared By:** Tammy Hitchens, Director of Finance

**Recommended City Council Action**

1. Hold a public hearing.
2. Adopt Resolution No. 11 approving the service plan for Orchard Park Place North Metropolitan District.

**Summary Statement**

- The developers of property on the northern end of the property between 136<sup>th</sup> Avenue and 144<sup>th</sup> Avenue and between I-25 and Huron propose the creation of a Metropolitan Special District to fund infrastructure to serve the Orchard Park Place commercial development. The District will consist of approximately 56.2 acres of commercial development. The developer is AZG Westminster, LLC (AZG).
- Metropolitan Special Districts are governmental entities created by property owners of the district and is legally distinct from the City. However, the City must approve a Service Plan before a district can be created. This is a “skeletal service plan” that allows the developer to proceed with the formation of the district at the May election. The district will not be allowed to levy any tax, impose any fee, construct any improvements or incur any debt until the Amended Service Plan is reviewed by City staff and approved by Council at a later date.
- AZG is proposing this Metro District in a manner that would meet the City’s policy for metro districts, including a limit on the mill levy. The mill levy will be limited to 40 mills as this area will also have a General Improvement District levy of 10 mills to repay the City for recoveries and 3 mills for ongoing operations.
- The Metro District is one component of the overall financing plan for the Orchard Park development. The one currently being proposed covers the north portion of the development. Additional Service plans will be submitted in the near future for Council’s consideration for the residential portion of the development and the south portion of the development that is planned for the Centura medical office project.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should the City Council allow a new metropolitan district to be formed within the City's boundaries?

**Alternative**

Do not approve the Service Plan and wait for the detailed Amended Service Plan to be submitted and reviewed. This would mean that the developer could not form the district until November 2008, at the earliest, if at all. The consequence of this would be that bonds could not be issued needed for the infrastructure for the North Area and the start of construction of this important project would be delayed until late 2008 or early 2009. If approved, the Service Plan will allow the district to be formed this May and the District could then proceed to issue bonds as soon as an Amended Service plan can be formulated for the city's review and approval. The service plan that has been submitted for approval prohibits the district from doing anything other than organize until the Amended service plan is approved by Council.

**Background Information**

Developers of the Orchard Park Place Development have requested that the City approve a metropolitan special district to fund infrastructure to serve the development. The project is located on the site bounded by north and south by 144<sup>th</sup> Avenue and approximately 142<sup>nd</sup> Avenue and east and west by I-25 and Huron Street.

Council adopted a metro district policy on December 13, 2004 that places restrictions on metro districts for commercial areas. Staff has been working with the developers of the Orchard Park Place development. This Metro District serves the northern part of the development and provides for commercial development.

The action requested of Council is the approval of a "skeleton" service plan. Service plans must be approved by City Council for any metropolitan special district proposed for formation within the City. The skeleton plan provides the necessary information to allow the issue of district formation to be placed on the May 2008 ballot. However, no bonds can be issued or property taxes levied until the comprehensive service plans are approved by City Council. Staff anticipates that the more detailed plans will be submitted to Council for review in the next few months.

The details on the extent of the improvements financed, bond issuance details, maximum/minimum mill levies and so forth will be presented to Council as a part of the review of the Comprehensive Service Plan later this year.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

RESOLUTION

RESOLUTION NO. **11**

INTRODUCED BY COUNCILLORS

SERIES 2008

**Dittman - Major**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO  
APPROVING THE SERVICE PLAN FOR THE ORCHARD PARK PLACE NORTH  
METROPOLITAN DISTRICT**

WHEREAS, § 32-1-204.5, C.R.S. provides that no special district shall be organized except upon adoption of a resolution approving the Service Plan of the proposed special district; and

WHEREAS, a service plan dated February 2008, has been submitted to the City Council of the City of Westminster (the "City") for the Orchard Park Place North Metropolitan District (the "District") in compliance with § 32-1-204.5, and City policies (hereinafter referred to as the "Service Plan"); and

WHEREAS, the District and the City anticipate that the Service Plan may be revised in the future, such revision to be approved by the City; and

WHEREAS, the territory of the proposed District is located wholly within the boundaries of the City; and

WHEREAS, adequate notice has been published and sent to property owners and interested parties of a public hearing of the City Council of the City of Westminster to review the Service Plan; and

WHEREAS, the City Council of the City of Westminster has conducted a public hearing on the Service Plan for the Orchard Park Place North Metropolitan District.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER, COLORADO:

Section 1. That notice of the hearing was properly given and the City Council has jurisdiction to hear this matter.

Section 2. The City Council makes the following findings:

a. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.

b. The existing service in the area to be served by the proposed special district is inadequate for present and projected needs.

c. The proposed special district is capable of providing economical and sufficient service to the areas within their proposed boundaries.

d. The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

Section 3. The Service Plan for the Orchard Park Place North Metropolitan District is hereby approved. Nothing herein limits the City's powers with respect to the District, the property within the District, or the improvements to be constructed by the District. The City's findings are based solely upon the evidence in the Service Plan and such other evidence presented at the public hearing, and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the Districts or the achievability of the results.

PASSED AND ADOPTED this 25<sup>th</sup> day of February 2008.

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Mayor

ATTEST:

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Clerk





WESTMINSTER

COLORADO  
Agenda Memorandum

City Council Meeting  
February 25, 2008



**SUBJECT:** Councillor's Bill No. 6 re 2007 4<sup>th</sup> Quarter Budget Supplemental Appropriation

**Prepared By:** Gary Newcomb, Accountant

**Recommended City Council Action**

Pass Councillor's Bill No. 6 on first reading providing for supplementary appropriations to the 2007 budget of the General, Storm Drainage, POST, WEDA, General Capital Improvement, CDBG, and Debt Service Funds.

**Summary Statement**

- At the end of each quarter Staff prepares an ordinance to appropriate unanticipated revenues received during the quarter. Preparing quarterly supplemental appropriation requests is done to simplify administrative procedures and reduce paper work.
- This is the 2007 4<sup>th</sup> quarter supplemental appropriation.
- General Fund amendments:
  - \$12,514 Interest earnings
  - \$5,535 PR&L scholarship funds
  - \$1,908 PR&L grants
  - \$32,000 PR&L program revenues
  - \$753 Recycling proceeds
  - \$227,580 Building permit fees
  - \$92,200 Police Department program revenues
  - \$59,405 Police Department grants
  - \$14,511 Police Department reimbursements
  - \$27,389 Fire Department grants
  - \$1,555 Fire Department program revenues
- Storm Drainage Fund amendments:
  - \$6,149 Interest Earnings
- POST Fund amendments:
  - \$7,967,589 Bond issuance proceeds
- WEDA Fund amendments:
  - \$285,500 Funds transfer
- General Capital Improvement Fund amendments:
  - \$51,492 interest earnings
  - \$6,486,727 Bond issuance proceeds
  - \$638,000 Cash-in-lieu payment
  - \$16,555 Energy rebates
- CDBG Fund amendments:
  - \$72,921 Funds transfer
- Debt Service Fund amendments:
  - \$11,146,906 Bond issuance proceeds

**Expenditure Required:** \$27,147,189

**Source of Funds:** The funding sources for these expenditures include interest earnings, sponsorship funds, grants, recycling proceeds, building permit fees, reimbursements, program revenues, energy rebates, bond issuance proceeds, recycling proceeds, cash-in-lieu payment, and funds transfer.

**Policy Issue**

Does City Council support amending the appropriations for the 2007 budget of the General, Storm Drainage, POST, WEDA, General Capital Improvement, CDBG, and Debt Service Funds?

**Alternative**

The alternative would be not to amend the 2007 budget appropriations for the General, Storm Drainage, POST, WEDA, General Capital Improvement, CDBG, and Debt Service Funds and utilize these funds for other purposes. Staff does not recommend this alternative as the various departments have already incurred expenses and covered them in their current budget in anticipation of appropriation of the funds.

**Background Information**

This agenda memo and attached Councillor's Bill is a routine action addressing the need to appropriate additional revenues and offset expenditures that resulted from increased activity or events that were not anticipated during the normal budget process.

**GENERAL FUND BUDGET AMENDMENTS**

Interest was received in the forth quarter of 2007 on Certificate of Participation (COPS) funds from the Ice Centre COPS, Westminster Blvd COPS, Public Safety Building COPS, Capital Facilities COPS, 07 Refunding COPS and the 05 144<sup>th</sup> Interchange COPS in the amounts of \$5,501; \$164; \$1,715; \$1,988; \$1,303; and \$1,843 respectively (for a total \$12,514). Issuance restrictions require the interest earnings be appropriated for use on the respective projects or debt service.

The Westminster Youth Scholarship Fund will benefit from the net proceeds of \$5,535 received from community events such as 4<sup>th</sup> of July, Holy COW Trail Stampede, art shows, etc. held in Westminster. Funds from the program were used to award scholarships for City-sponsored recreation programs to youth who could not otherwise afford to participate.

The Irving Street Library received \$1,908 from the Westminster Legacy Foundation. The grant was awarded for the purchase of two automated external defibrillators (AED).

The demand for recreation programs continued to be high. Additional youth and preschool activities, adult sports programs and some special events were offered to meet these needs. Offering these additional programs resulted in \$32,000 being expended in Parks, Recreation & Libraries Recreation Program Division for professional and contract services. Therefore, a portion of the additional revenue is being appropriated to help cover the direct costs of the programs.

The City received \$753 in recycling proceeds from Rocky Mountain Recycling for the recycling of scrap metal removed by Parks staff from their refuse pile. The funds are requested to be appropriated for landscape supplies.

The Community Development Building Division contracts with a consultant to perform contract review services. These services are used for almost all new commercial building reviews as well as residential projects to assure timely review. In order to offset this expense, excess building permit fees in the amount of \$227,580 are being appropriated.

The Police Department provides City of Westminster business security for their business or events. The amount of contract work was greater than budgeted and therefore the amount budgeted for extra duty overtime was not sufficient. In order to offset this expense, excess off duty police services revenue in the amount of \$84,000 are being appropriated.

The Police Department provides training for various law enforcement topics to law enforcement and other organizations. The amount of training provided was greater than budgeted. The Police Department is requesting the \$8,200 of the excess revenue be appropriated for career development training.

In June 2007, the Police Department applied for the U.S. Department of Justice 2007 Edward Byrne Memorial Justice Assistance Grant for the amount of \$30,705. The purpose of this grant is for the Westminster Police Department's cash-in-kind contribution to the North Metro Task Force (NMTF) operational budget. The City was not required to provide matching funds with this grant. The police department will be using all the monies from this grant to supplement the NMTF with the necessary funding for them to carry out their efforts in drug detection and enforcement services.

The Police Department received a \$24,900 DUI Checkpoint Colorado Grant for the summer of 2007 from the Colorado Department of Transportation (CDOT). This grant funded overtime reimbursement for officers to conduct at least four DUI Checkpoints between May and September of 2007.

The Police Department participated in a new pilot program for the Nationwide "Click it or Ticket" Campaign. This grant reimburses overtime for enforcement officers to issue summonses in a zero tolerance approach to teen seat-belt and graduated driver's license violations. The first week of the four week campaign was held in October 2007. A claim was filed with CDOT by the Westminster Police Department and \$800 was received to reimburse the enforcement overtime.

The Police Department received a grant award from the Victim Assistance Fund. The grant award of \$300 was used to purchase supplies for the Victim Services Unit.

The Police Department received a Safe Neighborhood Hero's grant award from the Wal-Mart Foundation. The grant award of \$1,000 was used to purchase equipment for graffiti eradication and education.

The Police Department received \$1,700 from Jefferson County for a VALE grant award. The funding reimburses overtime salaries incurred while providing training for the Police Department's Victim Advocates.

The Police Department received reimbursement awards in the amounts of \$9,420 and \$3,859 from the North Metro Drug Task Force for High Intensity Drug Trafficking Area (HIDTA) Investigations. This reimbursement award was for overtime incurred by members of the Police Department while working on Federal HIDTA cases.

The Police Department received \$1,232 from the City and County of Broomfield on behalf of the North Metro Drug Task Force for High Intensity Drug Trafficking Area (HIDTA) Investigations. This reimbursement award was for overtime incurred by members of the Police Department while working on Federal HIDTA cases.

The Fire Department received \$1,000 from Wal-Mart Foundation as a Fire Safety Public Education grant award. The funds were used to purchase material for public education programs such as home safety for seniors and fire prevention for youths.

The Fire Department received a grant from the State of Colorado, Division of Emergency Management (CDEM). The grant award of \$20,000 was used for the Fire Department's Emergency Management Program.

The Fire Department received two Fire Prevention and Safety Grants from the Homeland Security – Federal Emergency Management Agency (FEMA). The grant awards of \$4,756 and \$1,633 were used to reimburse purchases made for items to implement the Home Safety Program.

The Fire Department received \$1,555 in class registration fees for conducting CPR training classes. Funds from the registration fees were used to purchase EMS supplies used during the class.

### **STORM DRAINAGE FUND BUDGET AMENDMENTS**

The City received \$6,149 from the Urban Drainage Flood Control District (UDFCD) as interest earnings on funds held by UDFCD for the Quail Crossing Commercial project at the southwest corner of 136<sup>th</sup> Avenue and Huron Street. The funds are being requested to be appropriated to the Quail Creek Capital Improvements project for Right-of-Way purchases.

As part of the 2007 budget development process, regular salaries were projected utilizing a formula that takes into account a number of factors. If there ends up being a slight shortage in the salaries account, other accounts such as meeting expense, travel, etc, will cover this to make the overall budget balance. In the Stormwater Fund in Community Development, there are no other accounts included in CD's Engineering Division other than regular salaries. The same formula utilized for all departments' salary projections was applied to CD-Engineering in the Stormwater Fund where only one FTE plus one benefited intern are budgeted. Both employees received the maximum raise possible plus there was no turnover. As such, their Department/Division as a whole is technically over budget.

To comply with budget law, savings from another Stormwater Fund account need to be moved into CD to cover this slight overage. Both the Public Works & Utilities and General Services Departments had savings in their Stormwater Fund accounts. Staff is recommending that \$1,192 be transferred from the GS savings into CD to cover this amount.

### **PARKS, OPEN SPACE, AND TRAILS BUDGET AMENDMENTS**

On November 12, 2007, City Council approved the issuance of \$20,000,000 in Sales and Use Tax Revenue Bonds for Open Space land purchases and Parks and Recreational facility improvements. On December 11, 2007 bonds in the amount of \$20,000,000 with a premium of \$412,467 were issued. The amount to be appropriated is \$20,412,467 inclusive of bond sale expenses less \$4,275,000 that was previously appropriated through a Reimbursement Resolution Council approved on June 25, 2007. The Reimbursement Resolution approved expenditures to be reimbursed by the bond proceeds of which \$2,600,000 was allocated to Open Space land purchases and \$1,675,000 was allocated to Park facility improvement projects. In order to properly reflect the receipt of the bond proceeds and the subsequent use of the proceeds on the City's books, the bond proceeds are being appropriated. Of the \$12 million earmarked for open space acquisition, the remaining portion to be appropriated totals \$7,967,589. General Capital Improvement Fund portion earmarked for parks projects to be appropriated totals \$8,161,727.

### **WEDA FUND BUDGET AMENDMENTS**

The City received \$638,000 from Cadence Capital Investments as Cash-in-Lieu of construction for the Shoenberg Farms Commercial project at the northwest corner of 72<sup>nd</sup> and Sheridan Blvd. \$285,500 is requested for WEDA debt payments.

### **GENERAL CAPITAL IMPROVEMENT FUND BUDGET AMENDMENTS**

In 2005 when the Certificates of Participation (COPS) were issued for the 144<sup>th</sup> Interchange the bond proceeds were recorded to one capital project. Several months later it was determined that the proceeds received as capitalized interest should have been recorded in a separate capital project. The capitalized interest funds were moved to a separate project account. Now that all of the capitalized interest has been depleted, Staff is working to close the project. In reviewing the project, it was determined that a portion of the interest earnings from 2005 were appropriated twice due to the splitting of the project. The \$30,545 interest earnings requested to be appropriated with this action is the net interest earnings for the correction and the current quarter's earnings.

Interest was received throughout the years on Wal-Mart cash-in-lieu funds from the Shoenberg Farms Commercial project at the northwest corner of 72<sup>nd</sup> and Sheridan Blvd. The \$20,947 interest earnings is requested to be appropriated to the Sheridan Widening 70<sup>th</sup> to 74<sup>th</sup> project. The City received \$638,000 from Cadence Capital Investments as Cash-in-Lieu of construction for the Shoenberg Farms Commercial project at the northwest corner of 72<sup>nd</sup> and Sheridan Blvd. \$352,500 of the funds is requested to be appropriated to the Sheridan Widening 70<sup>th</sup> to 74<sup>th</sup> project and \$285,500 is requested for transfer to WEDA to be used for debt payments.

The City received \$16,555 in rebates from Excel Energy attributed to energy savings under the Siemens Energy Project. The funds are requested to be appropriated to the BO&M major maintenance capital project.

### **COMMUNITY DEVELOPMENT BLOCK GRANT FUND BUDGET AMENDMENTS**

In 2005, the City allocated and expended \$72,921 of Community Development Block Grant (CDBG) funds towards the preparation of a park development plan for the area along Little Dry Creek between Federal and Lowell Boulevards. At the time of the expenditure, the U.S. Department of Housing and Urban Development (HUD) had determined the project to be CDBG eligible. At a HUD consultation in 2007, the City was advised that the project was possibly ineligible for CDBG funding. HUD further noted that a new interpretation of the CDBG rules would require that CDBG funds would have to be expended on construction of the park and that Davis-Bacon prevailing wages would apply to the entire park construction project. These new factors posed significant cost issues relative to the future development of the park. In further discussions with HUD, it was agreed the City would "refund" the \$72,921 to the CDBG account and cover the park plan expenditure using City funds. By doing so, the park development would not be subjected to higher Davis-Bacon wage rates, which ultimately would result in substantial construction cost savings.

To cover the cost of preparing the park plan, Staff proposed to use funds from the Lowell Boulevard Enhancements account and apply the CDBG funds allocated to the park plan to the Lowell Boulevard project, which is already subject to Davis-Bacon wages given its present use of CDBG funds. The net effect is that there is no increase or decrease in funding to either project, and protects the City from having to incur higher wage rates on the future development of the Little Dry Creek Park.

### **DEBT SERVICE FUND BUDGET AMENDMENTS**

On November 12, 2007, City Council approved the issuance of \$20,000,000 in Sales and Use Tax Revenue Bonds for Open Space land purchases and Parks and Recreational facility improvements. In order to properly reflect the receipt of the bond proceeds and the subsequent use of the proceeds on the City's books, the bond proceeds are being appropriated. Debt Service Fund portion of this appropriation is \$8,151.

On September 24, 2007, City Council, approved the refunding of the 1997 Series A Sales and Use Tax Revenue Bonds. The amount to be appropriated is \$11,465,591 which is exclusive of the City’s contribution toward the refunding package of \$226,500. A budget revision will be prepared to move the budget from interest expense to other financing use to properly reflect the City’s contribution to the refunding costs. The refunding resulted in a net interest cost of 3.86% and a total cash flow savings of \$655,708.52. In order to properly reflect the receipt of the bond proceeds and the subsequent use of the proceeds on the City’s books, the bond proceeds are being appropriated.

On August 13, 2007, a supplemental appropriation was approved for the appropriation of the 2007A and B Sales and Use Tax Revenue Refunding Bonds. As part of the total refunding package, The City contributed \$148,009 and \$178,827, respectively. This contribution was appropriated as part of the total sources and uses of the bond issue when in fact the contribution funds were budgeted as part of the Debt Service Fund original budget for interest expense. Therefore, these funds should not have been included in the sources and uses of the supplemental appropriation but instead a budget revision should have been prepared to reduce the interest expense budget and increase the uses budget. This action by Council will correct the previous supplemental and more accurately reflect the source of the City’ contribution.

These appropriations will amend General Fund revenue and expense accounts as follows:

REVENUES

Description	Account Number	Current Budget	Amendment	Revised Budget
1000.40185.0010	Bldg Permit ADCO	\$400,000	\$141,000	\$541,000
1000.40185.0020	Bldg Permit JeffCO	250,000	86,580	336,580
1000.40610.0000	Federal Grants	51,608	65,216	116,824
1000.40620.0000	State Grants	106,023	26,700	132,723
1000.40640.0000	Other County Grants	0	1,908	1,908
1000.41030.0503	Adult Activities	1,133,390	4,000	1,137,390
1000.41030.0508	Preschool	0	3,000	3,000
1000.41030.0528	Youth Scholarships	0	5,535	5,535
1000.41030.0529	Youth Activities	0	25,000	25,000
1000.41340.0000	Off Duty Police Services	150,000	84,000	234,000
1000.41340.0013	Off Duty Fire Services	4,075	1,555	5,630
1000.41360.0000	PD Trainings	16,000	8,200	24,200
1000.42530.0077	Int Earnings 98 Ice Ctr	17,987	5,501	23,488
1000.42530.0209	Int Earnings 98 Cap Fac	132	1,988	2,120
1000.42530.0215	Int Earnings 01 COPS	2,354	1,715	4,069
1000.42530.0274	Int Earnings 05 COPS	0	1,843	1,843
1000.42530.0276	Int Earnings 99 COPS	1,664	164	1,828
1000.42530.0277	Int Earnings 07 COPS	931	1,303	2,234
1000.43060.0000	General	459,281	<u>10,142</u>	469,423
Total Change to Revenues			<u>\$475,350</u>	

EXPENSES

Description	Account Number	Current Budget	Amendment	Revised Budget
10010900.67700.0077	Lease Pmt 98 Ice Center	\$1,054,410	\$5,501	\$1,059,911
10010900.67700.0209	Lease Pmt 98 COPS	1,122,415	1,988	1,124,403
10010900.67700.0215	Lease Pmt 01 COPS	2,354	1,715	4,069
10010900.67700.0274	Lease Pmt 05 COPS	1,078,133	1,843	1,079,976
10010900.67700.0276	Lease Pmt 99 COPS	1,261,741	164	1,261,905
10010900.67700.0277	Lease Pmt 07 COPS	929,038	1,303	930,341
10020300.60400.0344	Salaries OT Inv Services	259,137	14,511	273,648
10020300.61800.0344	Career Dev Inv Svcs	24,237	2,000	26,237
10020300.61800.0612	Career Dev Training	15,000	8,200	23,200
10020300.67700.0344	Lease Pmts Inv Services	40,230	30,705	70,935
10020300.70200.0342	Supplies Neigh Svcs	14,650	1,000	15,650
10020500.60400.0005	Salaries OT Extra Duty	150,000	84,000	234,000
10020500.60400.0348	Salaries OT Traffic	88,670	800	89,470
10020500.60400.0349	Salaries OT Patrol Svcs	423,062	24,900	447,962
10025260.67800.0545	Contract Svcs EMGrant	7,381	20,000	27,381
10025260.70200.0546	Supplies EMS	8,695	1,555	10,250
10025260.70200.0547	Supplies Fire Prevention	10,500	7,389	17,889
10030370.65100.0000	Professional Services	50,000	227,580	277,580
10050550.71000.0000	Landscape Supplies	40,000	753	40,753
10050620.75200.0000	Office Equipment	0	1,908	1,908
10050760.60600.0503	Salaries Temp Adult Act	8,450	4,000	12,450
10050760.60600.0508	Salaries Tmp Preschool	116,970	3,000	119,970
10050760.60600.0529	Salaries Temp Youth Act	164,470	25,000	189,470
10050760.67600.0528	Youth Scholarships	8,116	5,535	13,651
Total Change to Expenses			<u>\$475,350</u>	

These appropriations will amend Storm Drainage Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
2500.43060.0000	General	\$3,592	<u>\$6,149</u>	\$9,741
Total Change to Revenues			<u>\$6,149</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
25012050.65100.0552	Professional Services	\$108,592	(\$1,192)	\$107,400
25030380.60200.0000	Salaries	76,100	1,192	77,292
80125030082.80400.8888	Misc Storm Drain Improv	27,803	<u>6,149</u>	33,952
Total Change to Expenses			<u>\$6,149</u>	

These appropriations will amend POST Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
5400.46000.0175	Other Financing Sources	\$4,275,000	<u>\$7,967,589</u>	\$12,242,589
Total Change to Revenues			<u>\$7,967,589</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
54010900.79400.0000	Other Expense – Misc.	\$0	\$218,525	\$2,259,491
54010900.79800.0750	Transfers GCIF	1,675,000	(1,675,000)	-
80754010798.80400.8888	2007 POST D Bond	2,600,000	<u>9,424,064</u>	12,024,064
Total Change to Expenses			<u>\$7,967,859</u>	

These appropriations will amend WEDA Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
6800.45000.0750	TRF GCIF	\$0	<u>\$285,500</u>	\$285,500
Total Change to Revenues			<u>\$285,500</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
68010900.78400.0190	Interest Pay S Sheridan	\$0	<u>\$285,500</u>	\$285,500
Total Change to Expenses			<u>\$285,500</u>	



These appropriations will amend General Capital Improvement Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
7500.40210.0751	Cash-in-Leiu	\$394,000	\$638,000	\$1,032,000
7500.42520.0047	Int Earnings Wal-Mart	0	20,947	20,947
7500.42530.0274	Int Earnings 05 COPS	108,049	30,545	138,594
7500.43080.0000	Reimbursements	63,775	16,555	80,330
7500.45000.0540	TRF POST	1,675,000	(1,675,000)	-
7501.46000.0175	Other Financing Sources	0	<u>8,161,727</u>	8,161,727
Total Change to Revenues			<u>\$7,192,774</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
75010900.79400.0000	Other Expense – Misc.	\$0	\$145,684	\$3,443,361
75010900.79800.0680	Transfers WEDA	0	285,500	285,500
75010900.79800.0760	Transfers CDBG	0	72,921	72,921
80375012312.80400.8888	BO&M Major Maint	577,815	16,555	594,370
80475030600.80400.8888	Lowell Blvd Corridor	126,446	(72,921)	53,525
80575030713.80400.8888	COPS 05 Interchange	16,523,745	44,636	16,568,381
80575030733.80400.8888	COPS 05 Finance Costs	1,958,516	(14,091)	1,944,425
80675030203.80400.8888	Sheridan Widen 70-74th	0	373,447	373,447
80775050789.80400.8888	Sports Center	500,000	1,002	501,002
80775050791.80400.8888	Big Dry Creek Park	700,000	1,404	701,404
80775050792.80400.8888	City Center Park	125,000	1,678,610	1,803,610
80775050793.80400.8888	City Park Aquatics	350,000	3,157,019	3,507,019
80775050817.80400.8888	Swin & Fit Renovation	0	1,002,005	1,002,005
80775050818.80400.8888	Golf Course Restrooms	0	<u>501,003</u>	501,003
Total Change to Expenses			<u>\$7,192,774</u>	

These appropriations will amend CDBG Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
7600.45000.0750	TRF GCIF	\$0	<u>\$72,921</u>	\$72,921
Total Change to Revenues			<u>\$72,921</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
80576030722.80400.8888	CDBG 05 Block Grant	\$0	<u>\$72,921</u>	\$72,921
Total Change to Expenses			<u>\$72,921</u>	

These appropriations will amend Debt Service Fund revenue and expense accounts as follows:

**REVENUES**

Description	Account Number	Current Budget	Amendment	Revised Budget
8000.40620.0180	S&U Bond A	\$11,504,191	(\$148,009)	\$11,356,182
8000.40620.0204	07 POST	14,498,522	(178,827)	14,319,695
8000.46000.0175	Other Financing Sources	0	8,151	8,151
8000.46020.0174	S&U Bond C	0	<u>11,465,591</u>	11,465,591
Total Change to Revenues			<u>\$11,146,906</u>	

**EXPENSES**

Description	Account Number	Current Budget	Amendment	Revised Budget
80010900.78800.0000	Other Financing Use	\$26,002,713	\$11,138,755	\$37,141,468
80010900.79400.0000	Other Exp - Misc	0	<u>8,151</u>	8,151
Total Change to Expenses			<u>\$11,146,906</u>	

These adjustments will bring the City’s accounting records up-to-date to reflect the various detailed transactions.

Respectfully submitted,

J. Brent McFall  
 City Manager  
 Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **6**

SERIES OF 2007

INTRODUCED BY COUNCILLORS

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**A BILL**

**FOR AN ORDINANCE AMENDING THE 2007 BUDGETS OF THE GENERAL, STORM DRAINAGE, POST, WEDA, GENERAL CAPITAL IMPROVEMENT, CDBG, AND DEBT SERVICE FUNDS AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM THE 2007 ESTIMATED REVENUES IN THE FUNDS**

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 2007 appropriation for the General, Storm Drainage, POST, WEDA, General Capital Improvement, CDBG, and Debt Service Funds, initially appropriated by Ordinance No. 3316 are hereby increased in aggregate by \$27,147,189. This appropriation is due to the receipt of interest earnings, sponsorship funds, grants, recycling proceeds, building permit fees, reimbursements, program revenues, energy rebates, bond issuance proceeds, recycling proceeds, cash-in-lieu payment, and funds transfer.

Section 2. The \$27,147,189 increase shall be allocated to City Revenue and Expense accounts as described in the City Council Agenda Item # dated February 25, 2008 (a copy of which may be obtained from the City Clerk) increasing City fund budgets as follows:

General Fund	\$475,350
Storm Drainage Fund	\$6,149
POST Fund	\$7,967,589
WEDA Fund	\$285,500
General Capital Improvement Fund	\$7,192,774
CDBG Fund	\$72,921
Debt Service Fund	<u>\$11,146,906</u>
Total	<u>\$27,147,189</u>

Section 3 – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>TH</sup> day of February, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 17<sup>TH</sup> day of March, 2008.

ATTEST:

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Mayor

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City Clerk



**WESTMINSTER  
COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** 72<sup>nd</sup> Avenue and Sheridan Boulevard Roadway Project Expenditures

**Prepared By:** John Burke, Senior Engineer

**Recommended City Council Action**

Authorize an allocation of \$352,500 to supplement the previously authorized budget for the 72<sup>nd</sup> Avenue and Sheridan Boulevard roadway construction project; authorize payment to Xcel Energy for the installation of street lights in the amount of \$62,886; and ratify expenditures for right-of-way purchases that were required for the project to Jerry Tepper in the amount of \$782,400 and to McDonalds in the amount of \$70,052.

**Summary Statement**

- The installation of roadway improvements at 72<sup>nd</sup> Avenue and Sheridan Boulevard are well underway and should be completed within the next several weeks.
- The proposed \$352,500 allocation represents a portion of the payment of cash-in-lieu of the construction of Sheridan Boulevard improvements that was recently received from the developer of the Shoenberg Farms Commercial project located at the northwest corner of 72<sup>nd</sup> Avenue and Sheridan Boulevard. This portion of the cash-in-lieu payment from the developer is needed to fully fund the City's current roadway project.
- Xcel Energy recently invoiced the City \$62,886 for the installation of street lights along Sheridan Boulevard between 70<sup>th</sup> Avenue and 74<sup>th</sup> Avenue. Payment of this amount is required before the street lights can be installed.
- Several right-of-way acquisitions were necessary to construct this project. Council is requested to ratify two of those expenses that exceeded staff's authorization limits.
- Funds for these expenses are available in the Sheridan Widening (70<sup>th</sup> to 74<sup>th</sup>) project of the General Capital Improvement Project Fund.

**Expenditure Required:** \$1,267,838

**Source of Funds:** General Capital Improvement Project Fund -  
Sheridan Widening 70<sup>th</sup> to 74<sup>th</sup> Project

**Policy Issue**

Should the City authorize this project budget to complete the roadway improvements and ratify expenses for right-of-way acquisition?

**Alternative**

One alternative would be to not authorize this project budget and postpone the installation of street lights along Sheridan Boulevard. This alternative is not recommended as the project will not be fully funded and delaying the installation of street lights would cause a significant safety concern.

**Background Information**

The 72<sup>nd</sup> Avenue and Sheridan Boulevard Roadway Improvement project has been operating with minimal contingency. Now that the developers of the Shoenberg Farms retail project have paid for their share of the road improvements, the project will be fully funded, including an approximate 8% contingency.

Additionally, Xcel Energy has completed the design work for the street lights along Sheridan Boulevard and submitted an invoice to the City for this work in the amount of \$62,886. Once payment is received by Xcel, they will begin installing these lights.

Lastly, various rights-of-way were acquired for the construction of this roadway project. City Council had previously authorized staff to acquire the rights-of-way per a February 27, 2006 City Council action. Staff is now presenting those two right-of-way purchases that require specific City Council authorization due to the price of the acquisitions.

Respectfully submitted,

J. Brent McFall  
City Manager



## Agenda Item 11 K

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Resolution No. 12 re Traffic Signal Maintenance Intergovernmental Agreement with the Colorado Department of Transportation

**Prepared By:** Mike Normandin, Transportation Engineer

**Recommended City Council Action**

Adopt Resolution No. 12 authorizing the City Manager to execute an Intergovernmental Agreement with the Colorado Department of Transportation regarding traffic signal maintenance for a five year period.

**Summary Statement**

- The City of Westminster and the Colorado Department of Transportation (CDOT) entered into an agreement in June 1988 that addressed the maintenance of traffic signals on a portion of the State Highway System (SHS) located within the City. The City of Westminster has been maintaining and operating the seven traffic signals on Sheridan Boulevard (State Highway 95) from 80<sup>th</sup> Avenue north to the interchange at U.S. 36 since that time. The City is reimbursed by CDOT for the traffic signal maintenance costs.
- The City of Westminster desires to add the traffic signals on Sheridan Boulevard at 76<sup>th</sup> Avenue, 73<sup>rd</sup> Avenue, 72<sup>nd</sup> Avenue and 70<sup>th</sup> Avenue to the list of traffic signals maintained by the City. This will allow City Staff to add the intersections to the City's Computerized Signal System and closely monitor the traffic signal operations at the signalized intersections adjacent to the new retail centers in the vicinity of 72<sup>nd</sup> Avenue and Sheridan Boulevard. CDOT is in agreement with the City's request to add these signals.
- CDOT requires that resolutions adopted by the City Council accompany all agreements between the City and CDOT. The attached resolution establishes the City's intent to maintain the traffic signals on the State Highway System.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Should the City enter into an Intergovernmental Agreement with CDOT for the maintenance of eleven traffic signals on Sheridan Boulevard from 70<sup>th</sup> Avenue to the interchange at US 36?

**Alternative**

The alternative would be to not enter into an agreement with CDOT to maintain the traffic signals on Sheridan Boulevard and, thus, require that CDOT continues to be responsible for the traffic signal maintenance and operation. This alternative is not recommended as this would result in the loss of flexibility for City Staff to monitor and adjust the traffic signal timing on the Sheridan Boulevard corridor, which is a primary feeder for major retail centers in the City.

**Background Information**

In 1987, the City implemented a computerized signal system that provided Staff the capability to monitor the signalized intersections adjacent to the Westminster Mall area. The implementation of the computerized signal system was the impetus for the City to pursue the maintenance and operation of select traffic signals on the State Highway System. The signalized intersections on the computerized signal system communicate directly to a personal computer in City Hall. City Staff has the ability to download and upload signal timing plans as well as monitor the operation of the traffic signals. The initial computerized signal system monitored 18 signalized intersections. Since that time, the system has been expanded to arterial street corridors throughout the City and includes 55 intersections.

The City and CDOT entered into an agreement in June 1988 that addressed the maintenance of traffic signals on a portion of the State Highway System within the City. The City has been maintaining and operating the seven traffic signals on Sheridan Boulevard (State Highway 95) from 80<sup>th</sup> Avenue north to the interchange at U.S. 36. CDOT has an established funding source that allows the State to reimburse cities and counties for the cost of signal maintenance for signalized locations on the State Highway System. City Staff has calculated the average cost of maintaining a traffic signal, taking into consideration the established monthly charge and extra work performed by the City's signal maintenance contractor and the monthly energy charge paid to Xcel Energy. The current average monthly cost per intersection is \$280.00. The attached agreement establishes a provision wherein CDOT will reimburse the City for the signal maintenance cost on a monthly basis at a cost of \$280.00 per intersection. In addition, the attached agreement provides a mechanism for the City to modify the monthly reimbursement cost should any cost increases occur. The funds paid to the City by CDOT for the subject signal maintenance will be placed into the proper operational budget account to cover the cost of maintaining the traffic signals.

Respectfully submitted,

J. Brent McFall  
City Manager

**Attachments**

- Resolution
- Intergovernmental Agreement

RESOLUTION

RESOLUTION NO. **12**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**Major - Dittman**

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE COLORADO DEPARTMENT OF TRANSPORTATION FOR THE MAINTENANCE OF TRAFFIC SIGNALS ON THE STATE HIGHWAY SYSTEM**

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution, as well as Section 29-1-201, *et. seq.*, of the Colorado Revised Statutes, authorize and encourage governments to cooperate by contracting with one another for their mutual benefit;

WHEREAS, the City of Westminster is vitally interested in improving traffic flow on Sheridan Boulevard (State Highway 95); and

WHEREAS, the City desires to maintain traffic signals on State Highway 95 at the following locations:

- West 70<sup>th</sup> Avenue and Sheridan Boulevard
- West 72<sup>nd</sup> Avenue and Sheridan Boulevard
- West 73<sup>rd</sup> Avenue and Sheridan Boulevard
- West 76<sup>th</sup> Avenue and Sheridan Boulevard
- West 80<sup>th</sup> Avenue and Sheridan Boulevard
- West 81<sup>st</sup> Avenue and Sheridan Boulevard
- West 84<sup>th</sup> Avenue and Sheridan Boulevard
- West 87<sup>th</sup> Avenue (Turnpike Drive) and Sheridan Boulevard
- West 88<sup>th</sup> Avenue and Sheridan Boulevard
- U.S. 36 South Ramp and Sheridan Boulevard
- U.S. 36 North Ramp and Sheridan Boulevard

WHEREAS, the Colorado Department of Transportation (“CDOT”) shall reimburse the City of Westminster \$280.00 per month per signal for signal maintenance costs.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER THAT:

1. The Contract between the City and CDOT pertaining to traffic signal maintenance for certain signalized intersections on the State Highway System, a copy of which is attached hereto and incorporated herein by this reference, is hereby approved.
2. The City Manager is hereby authorized to execute and the City Clerk to attest to the attached Contract.

PASSED AND ADOPTED this 25<sup>th</sup> day of February, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney



**CONTRACT**

**THIS CONTRACT** made this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation hereinafter referred to as the State and CITY OF WESTMINSTER, 4800 West 92<sup>nd</sup> Avenue, Westminster, Colorado 80031-6387, CDOT Vendor #: 200053, hereinafter referred to as the "Contractor" or the "Local Agency."

**RECITALS**

1. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs in Fund Number 400, Function 2300, GL Acct. 4541000010, Cost Center R658M-010, (Contract Encumbrance Amount: \$36,960.00).
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Section 43-2-135(1)(i) C.R.S., as amended, requires the State to install, operate, maintain and control, at State expense, all traffic control devices on the state highway system within cities and incorporated towns; and;
4. The parties desire to enter this Contract for the Contractor to provide some or all of the certain maintenance services on state highways that are the responsibility of the State under applicable law, and for the State to pay the Contractor a reasonable negotiated fixed rate for such services;
5. The parties also intend that the Contractor shall remain responsible to perform any services and duties on state highways that are the responsibility of the Contractor under applicable law, at its own cost;
6. The State and the Contractor have the authority, as provided in Sections 29-1-203, 43-1-106, 43-2-103, 43-2-104, and 43-2-144 C.R.S., as amended, and in applicable ordinance or resolution duly passed and adopted by the Contractor, to enter into contract with the Contractor for the purpose of maintenance of traffic control devices on the state highway system as hereinafter set forth; and
7. The Contractor has adequate facilities to perform the desired maintenance services on State highways within its jurisdiction.

## **THE PARTIES NOW AGREE THAT:**

### **Section 1. Scope of Work**

All of the specific location(s) and type(s) of traffic control device(s) to be operated and maintained by the Contractor pursuant to this contract are described in Exhibit A, attached hereto and incorporated herein. Such services and highways are further detailed in Section 5.

### **Section 2. Order of Precedence**

In the event of conflicts or inconsistencies between this contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in section 22 of this contract
2. This contract
3. Exhibit A (Scope of Work)
4. Exhibits C and D (Contract Modification Tools)
5. Other Exhibits in descending order of their attachment.

### **Section 3. Term**

This contract shall be effective upon approval of the State Controller or designee, or on the date made, whichever is later. The term of this contract shall be for a **term of FIVE (5) years**. Provided, however, that the State's financial obligation for each subsequent, consecutive fiscal year of that term after the first fiscal year shall be subject to and contingent upon funds for each subsequent year being appropriated, budgeted, and otherwise made available therefor.

### **Section 4. Project Funding and Payment Provisions**

A. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as Exhibit B.

B. Subject to the terms of this Contract, for the satisfactory performance of the maintenance services on the Highways, as described in Section 5, the State shall pay the Contractor on a lump sum basis, payable in monthly installments, upon receipt of the Contractor's statements, as provided herein.

1. The State shall pay the Contractor for the satisfactory operation and maintenance of traffic control devices under this contract at the rates described in Exhibit C, which is attached hereto and made a part hereof. Provided, however, that the total charges to be paid by the State during each fiscal year beginning July 1 and ending June 30 of the following year shall not exceed a maximum amount of **\$36,960.00** without the benefit of a

supplemental agreement executed prior to any such excess charges being incurred. Contractor billings and State payments for each of the traffic control devices listed in Exhibit B shall be on a "lump sum" basis, in accordance with the rates described in Exhibit C, subject to the maximum amount described above. The Contractor will bill the State monthly and the State will pay such bills within 60 days.

2. The statements submitted by the Contractor for which payment is requested shall contain an adequate description of the type(s) and the quantity(ies) of the maintenance services performed, the date(s) of that performance, and on which specific sections of the Highways such services were performed, in accord with standard Contractor billing standards.

3. If the Contractor fails to satisfactorily perform the maintenance for a segment of the Highways (or portion thereof), or if the statement submitted by the Contractor does not adequately document the payment requested, after notice thereof from the State, the State may deduct and retain a proportionate amount from the monthly payment, based on the above rate, for that segment or portion.

#### **Section 5. State and Local Agency Commitments**

A. The Contractor shall perform the "highway maintenance services" for the certain State Highway System segments described herein. Such services and highways are detailed in Section 1 (or Exhibit A).

B. The Contractor shall operate and maintain the specific traffic control devices, and at the particular locations, all as listed on Exhibit A ("the Work"), in a manner that is consistent with current public safety standards on state highways within its jurisdictional limits, and in conformance with applicable portions of the "Manual on Uniform Traffic Control Devices" and the "Colorado Supplement" thereto, which are referred to collectively as the "Manual" and which are incorporated herein by reference as terms and conditions of this Contract. The Contractor shall provide all personnel, equipment, and other services necessary to satisfactorily perform such operation and maintenance.

C. The State shall have the option to add or delete, at any time during the term of this Contract, one or more specific traffic control devices from those listed in Exhibit A, and therefore amend the Work to be performed by the Contractor under this Contract. The State may amend Exhibit A by written notice to the Contractor using a change order letter substantially equivalent to Exhibit D.

D. The Contractor may propose, in writing, other potential specific traffic control devices to be operated and maintained by the Contractor during the term of this contract, based on the same rates that had been initially agreed to by the Contractor in Exhibit C. If the State determines in writing that operation and maintenance of those other devices by the Contractor is appropriate, and is desirable to the State, and if the State agrees to add such devices to this contract, then the State shall, by written Change Order issued to the Contractor in a form substantially equivalent to

Exhibit D, add such devices to this contract.

E. The Contractor shall perform all maintenance services on an annual basis. The Contractor's performance of such services shall comply with the same standards that are currently used by the State for the State's performance of such services, for similar type highways with similar use, in that year, as determined by the State. The State's Regional Transportation Director, or his representative, shall determine the then current applicable maintenance standards for the maintenance services. Any standards/directions provided by the State's representative to the Contractor concerning the maintenance services shall be in writing. The Contractor shall contact the State Region office and obtain those standards before the Contractor performs such services.

F. The Contractor shall perform the maintenance services in a satisfactory manner and in accordance with the terms of this Contract. The State reserves the right to determine the proper quantity and quality of the maintenance services performed by the Contractor, as well as the adequacy of such services, under this Contract. The State may withhold payment, if necessary, until Contractor performs the maintenance services to the State's satisfaction. The State will notify the Contractor in writing of any deficiency in the maintenance services. The Contractor shall commence corrective action within 24 hours of receiving actual or constructive notice of such deficiency: a) from the State; b) from its own observation; or c) by any other means. In the event the Contractor, for any reason, does not or cannot correct the deficiency within 24 hours, the State reserves the right to correct the deficiency and to deduct the actual cost of such work from the subsequent payments to the Contractor, or to bill the Contractor for such work.

G. Performance Measures shall be accounted for within the duration of this contract and will be associated with signal/electrical maintenance. These Measures shall be addressed quarterly and for every quarter of the contract. Performance records shall be kept by the Contractor and a copy sent to the CDOT Project Manager listed in this contract. The Contractor shall submit performance documentation to the CDOT Project Manager semi-annually along with the payment requests every July and January. Performance measures shall be conducted on all devices listed in Exhibit A.

#### **Section 6. Record Keeping**

The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this contract. The Local Agency shall maintain such records for a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The Local Agency shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the State and FHWA to inspect the project and to inspect, review and audit the project records.

#### **Section 7. Termination Provisions**

This contract may be terminated as follows:

This Contract may be terminated by either party, but only at the end of the State fiscal year (June 30), and only upon written notice thereof sent by registered, prepaid mail and received by the non-terminating party not later than 30 calendar days before the end of that fiscal year. In that event, the State shall be responsible to pay the Contractor only for that portion of the traffic control device maintenance services actually and satisfactorily performed up to the effective date of that termination, and the Contractor shall be responsible to provide such services up to that date, and the parties shall have no other obligations or liabilities resulting from that termination.

### **Section 8. Legal Authority**

The Local Agency warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Local Agency to its terms. The person(s) executing this contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this contract.

### **Section 9. Representatives and Notice**

The State will provide liaison with the Local Agency through the State's Region Director, Region 6, 2000 South Holly Street. Said Region Director will also be responsible for coordinating the State's activities under this contract and will also issue a "Notice to Proceed" to the Local Agency for commencement of the Work. All communications relating to the day-to-day activities for the work shall be exchanged between representatives of the State's Transportation Region 6 and the Local Agency. All communication, notices, and correspondence shall be addressed to the individuals identified below. Either party may from time to time designate in writing new or substitute representatives.

If to State:  
Steve Hersey  
CDOT Region 6  
Traffic Engineer  
2000 South Holly Street  
Denver, Colorado 80222  
(303) 757-9942

If to the Local Agency:  
Mike Normandin  
City of Westminster  
4800 West 92<sup>nd</sup> Avenue  
Westminster, Colorado 80031  
(303) 430-2400, ext. 2143

### **Section 10. Successors**

Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

### **Section 11. Third Party Beneficiaries**

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the State

and the Local Agency. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

#### **Section 12. Governmental Immunity**

Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, et seq., C.R.S., as now or hereafter amended and the risk management statutes, §§ 24-30-1501, et seq., C.R.S., as now or hereafter amended.

#### **Section 13. Severability**

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

#### **Section 14. Waiver**

The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

#### **Section 15. Entire Understanding**

This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

#### **Section 16. Survival of Contract Terms**

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

## **Section 17. Modification and Amendment**

A. This contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

B. Either party may suggest renegotiation of the terms of this Contract, provided that the Contract shall not be subject to renegotiation more often than annually, and that neither party shall be required to renegotiate. If the parties agree to change the provisions of this Contract, the renegotiated terms shall not be effective until this Contract is amended/modified accordingly in writing. Provided, however, that the rates will be modified only if the party requesting the rate change documents, in accord with then applicable cost accounting principles and standards (including sections 24-107-101, et seq., C.R.S. and implementing regulations), that the requested increase/decrease is based on and results from (and is proportionate to) an increase/decrease in the "allowable costs" of performing the Work.

## **Section 18. Change Orders and Option Letters**

A. Bilateral changes within the general scope of the Contract, as defined in Section 1 above, may be executed using the change order letter process described in this paragraph and a form substantially equivalent to the sample change order letter attached as Exhibit D, for any of the following reasons.

1. Where the agreed changes to the specifications result in an adjustment to the price, delivery schedule, or time of performance.
2. Where the agreed changes result in no adjustment to the price, delivery schedule, or time of performance. The change order shall contain a mutual release of claims for adjustment of price, schedules, or time of performance.
3. Where the changes to the contract are priced based on the unit prices to be paid for the goods and/or services established in the contract.
4. Where the changes to the contract are priced based on established catalog generally extended to the public.

Other bilateral modifications not within the terms of this paragraph must be executed by formal amendment to the contract, approved in accordance with state law.

B. The State may increase the quantity of goods/services described in Exhibit A at the unit prices established in the contract. The State may exercise the option by written notice to the contractor within 30 days before the option begins in a form substantially equivalent to Exhibit E. Delivery/performance of the goods/service shall continue at the same rate and under the same terms as established in the contract

C. The State may also unilaterally increase/decrease the maximum amount payable under this

contract based upon the unit prices established in the contract and the schedule of services required, as set by the state. The State may exercise the option by providing a fully executed option to the contractor, in a form substantially equivalent to Exhibit E, immediately upon signature of the State Controller or his delegate. Performance of the service shall continue at the same rate and under the same terms as established in the contract.

### **Section 19. Disputes**

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the contract in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

### **Section 20. Does not supercede other agreements**

This Contract is not intended to supercede or affect in any way any other agreement (if any) that is currently in effect between the State and the Contractor for other "maintenance services" on State Highway rights-of-way within the jurisdiction of the Contractor. Also, the Contractor shall also continue to perform, at its own expense, all such activities/duties (if any) on such State Highway rights-of-ways that the Contractor is required by applicable law to perform.

### **Section 21. Subcontractors**

The Contractor may subcontract for any part of the performance required under this Contract, subject to the Contractor first obtaining approval from the State for any particular subcontractor. The State understands that the Contractor may intend to perform some or all of the services required under this Contract through a subcontractor. The Contractor agrees not to assign rights or delegate duties under this contract [or subcontract any part of the performance required under the contract] without the express, written consent of the State [which shall not be unreasonably withheld]. Except as herein otherwise provided, this agreement shall inure to the benefit of and be binding only upon the parties hereto and their respective successors and assigns.



The Special Provisions apply to all contracts except where noted in *italics*.

1. **CONTROLLER'S APPROVAL. CRS 24-30-202 (1).** This contract shall not be deemed valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS 24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **INDEMNIFICATION.** Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.  
**[Applicable Only to Intergovernmental Contracts]** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, CRS 24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., as applicable, as now or hereafter amended.
4. **INDEPENDENT CONTRACTOR. 4 CCR 801-2.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither contractor nor any agent or employee of contractor shall be or shall be deemed to be an agent or employee of the state. Contractor shall pay when due all required employment taxes and income taxes and local head taxes on any monies paid by the state pursuant to this contract. Contractor acknowledges that contractor and its employees are not entitled to unemployment insurance benefits unless contractor or a third party provides such coverage and that the state does not pay for or otherwise provide such coverage. Contractor shall have no authorization, express or implied, to bind the state to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall provide and keep in force workers' compensation (and provide proof of such insurance when requested by the state) and unemployment compensation insurance in the amounts required by law and shall be solely responsible for its acts and those of its employees and agents.
5. **NON-DISCRIMINATION.** Contractor agrees to comply with the letter and the spirit of all applicable State and federal laws respecting discrimination and unfair employment practices.
6. **CHOICE OF LAW.** The laws of the State of Colorado, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract, to the extent that this contract is capable of execution. At all times during the performance of this contract, Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.
7. **[Not Applicable to Intergovernmental Contracts] VENDOR OFFSET. CRS 24-30-202 (1) and 24-30-202.4.** The State Controller may withhold payment of certain debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State or its agencies, as a result of final agency determination or reduced to judgment, as certified by the State Controller.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** No State or other public funds payable under this contract shall be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies that, for the term of this contract and any extensions, Contractor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this paragraph, the State may exercise any remedy available at law or equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **EMPLOYEE FINANCIAL INTEREST. CRS 24-18-201 and 24-50-507.** The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract.
10. **[Not Applicable to Intergovernmental Contracts]. ILLEGAL ALIENS - PUBLIC CONTRACTS FOR SERVICES AND RESTRICTIONS ON PUBLIC BENEFITS. CRS 8-17.5-101 and 24-76.5-101.** Contractor certifies that it shall comply with the provisions of CRS 8-17.5-101 et seq. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor represents, warrants, and agrees that it (i) has verified that it does not employ any illegal aliens, through participation in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security, and (ii) otherwise shall comply with the requirements of CRS 8-17.5-102(2)(b). Contractor shall comply with all reasonable requests made in the course of an investigation under CRS 8-17.5-102 by the Colorado Department of Labor and Employment. Failure to comply with any requirement of this provision or CRS 8-17.5-101 et seq., shall be cause for termination for breach and Contractor shall be liable for actual and consequential damages.  
Contractor, if a natural person eighteen (18) years of age or older, hereby swears or affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of CRS 24-76.5-101 et seq., and (iii) shall produce one form of identification required by CRS 24-76.5-103 prior to the effective date of this contract.

Revised October 25, 2006

Effective Date of Special Provisions: August 7, 2006

**SIGNATURE PAGE**

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

CONTRACTOR:

STATE OF COLORADO:  
BILL RITTER, JR., GOVERNOR

City of Westminster  
Legal Name of Contracting Entity

By \_\_\_\_\_  
Executive Director  
Department of Transportation

2000053  
CDOT Vendor Number

\_\_\_\_\_  
Signature of Authorized Officer

LEGAL REVIEW:  
JOHN W. SUTHERS  
ATTORNEY GENERAL

\_\_\_\_\_  
Print Name & Title of Authorized Officer

By \_\_\_\_\_

CORPORATIONS:  
(A corporate attestation is required.)

Attest (Seal) By \_\_\_\_\_  
(Corporate Secretary or Equivalent, or Town/City/County Clerk) (Place corporate seal here, if available)

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the goods and/or services provided.

STATE CONTROLLER:  
LESLIE M. SHENEFELT

By \_\_\_\_\_

Date \_\_\_\_\_

# Exhibit A

## Scope of Work

### State Highway Traffic Signal Listing

- The City shall maintain the traffic signals and associated stop bars and crosswalks at the locations listed below.
- Any reconstruction, modification, or improvement initiated by the City or performed as a result of a City project shall be included in the maintenance provided by the City.
- Any reconstruction, modification, or improvement initiated by the State or performed as a result of a State project shall be paid for separately by the State.
- The City shall perform inspections of all approaches at each location and submit documentation to CDOT by April 10<sup>th</sup> for each year of this contract. Inspection shall include, but not be limited to:
  - Each signal lens is operating and visible
  - Signal Timing is operating as programmed
  - Controller and Cabinet are clean and in good repair
  - Communication to signal is connected and operating
  - Back up power is tested for proper operation
  - Vehicle detection is operating properly
  - All luminaries attached to the signal are operating
- Any defects found at these intersections shall be remedied immediately. Defects and remediation shall be documented and kept on file at the City and copied to CDOT. Any defects not remedied within one month of discovery shall incur a price reduction to the monthly compensation of \$280.00 per defective signal until all defects of the signal are remedied.
- Yearly signal inspections shall include: the cursory visual inspection of signal caissons, bolts, bolt tightening, steel, welds, and attachment hardware and signal conflict monitor testing. Any deficiencies found in bolt tightening and attachment hardware shall be corrected immediately. Any deficiencies in the structure shall be documented and brought to the attention of the project manager.

#### **SH-95 (Sheridan) at:**

**70<sup>th</sup> Avenue**  
**72<sup>nd</sup> Avenue**  
**73<sup>rd</sup> Avenue**  
**76<sup>th</sup> Avenue**  
**80<sup>th</sup> Avenue**  
**81<sup>st</sup> Place**  
**84<sup>th</sup> Avenue**  
**88<sup>th</sup> Avenue**

**SH 36 North Ramps  
SH 36 South Ramps  
87<sup>th</sup> Avenue Turnpike Drive**

**Number of Signals on SH-95 – 11**

The monthly compensation provided to the City of Westminster for services described above shall be \$280.00 per signal per month.

LOCAL AGENCY  
ORDINANCE  
or  
RESOLUTION

## Exhibit C

### Local Agency Rate Schedule

The State of Colorado shall pay the City of Westminster for the satisfactory operations and maintenance of traffic control devices under this Contract at the following rates:

Signals: 11 locations @ \$280.00 each per month	= \$ 3,080.00
	<hr/>
Monthly Total	\$ 3,080.00
	<hr/>
Annual Total	$\begin{array}{r} \times 12 \\ \hline \$36,960.00 \end{array}$

**SAMPLE BILATERAL CHANGE ORDER LETTER**

Date: \_\_\_\_\_ State Fiscal Year: \_\_\_\_\_ Bilateral Change Order Letter No. \_\_\_\_\_

In accordance with Paragraph \_\_\_\_\_ of contract routing number \_\_\_\_\_, [ your agency code here ] \_\_\_\_\_, between the State of Colorado Department of or Higher Ed Institution [ your agency name here ] ( \_\_\_\_\_ division) and [ Contractor's Name Here ]

covering the period of [ July 1, 20\_\_\_\_ through June 30, 20\_\_\_\_ ] the undersigned agree that the supplies/services affected by this change letter are modified as follows:

**Services/Supplies**

Exhibit \_\_\_\_\_, Schedule of Equipment for Maintenance or Schedule of Delivery, is amended by adding \_\_\_\_\_, serial numbers \_\_\_\_\_ and \_\_\_\_\_.

**Price/Cost**

The maximum amount payable by the State for \_\_\_\_\_ [service] [supply] \_\_\_\_\_ in Paragraph \_\_\_\_\_ is (increased/decreased) by (\$ amount of change) to a new total of (\$ \_\_\_\_\_) based on the unit pricing schedule in Exhibit \_\_\_\_\_. The first sentence in Paragraph \_\_\_\_\_ is hereby modified accordingly; The total contract value to include all previous amendments, change orders, etc. is [ \$ \_\_\_\_\_ ].

**OR**

The parties agree that the changes made herein are "no cost" changes and shall not be the basis for claims for adjustment to [price] [cost ceiling], delivery schedule, or other terms or conditions of the contract. The parties waive and release each other from any claims or demands for adjustment to the contract, including but not limited to price, cost, and schedule, whether based on costs of changed work or direct or indirect impacts on unchanged work. Controller approval of this "no cost" change is not required. \_\_\_\_\_ contractor initials. \_\_\_\_\_ Agency initials.

[ **Include this sentence:** This change to the contract is intended to be effective as of \_\_\_\_\_, or on approval by the State Controller, whichever is later. ]

Please sign, date, and return all copies of this letter on or before \_\_\_\_\_ 20\_\_\_\_.

**APPROVALS:**

**Contractor Name:**

**State of Colorado:**  
Bill Ritter, Jr., Governor

By: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name \_\_\_\_\_  
Title \_\_\_\_\_

For the Executive Director/College President  
Colorado Department of \_\_\_\_\_ or Higher Ed Institution

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for goods and/or services provided.

**State Controller, Leslie M. Shenefelt**

By: \_\_\_\_\_

Date: \_\_\_\_\_

SAMPLE OPTION LETTER

Date: \_\_\_\_\_ State Fiscal Year: \_\_\_\_\_ Option Letter No. \_\_\_\_\_

SUBJECT: [Amount of goods/Level of service change]

In accordance with Paragraph(s) \_\_\_\_\_ of contract routing number \_\_\_\_\_, [ your Agency code here ], between the State of Colorado Department of or Higher Ed Institution [ your agency name here \_\_\_\_\_ ], [ \_\_\_\_\_ division], and

[Add Contractor's name here]

covering the period of [ July 1, 20\_\_ through June 30, 20\_\_ , ] the state hereby exercises the option for [an additional one year's performance period at the (cost ) (price) specified in Paragraph \_\_\_\_\_.] and/or [increase/decrease the amount of goods/services at the same rate(s) as specified in Paragraph/Schedule/Exhibit \_\_\_\_\_.]

The amount of funds available and encumbered in this contract is [ increased/decreased ] by [ \$ amount of change] to a new total funds available of [ \$ \_\_\_\_\_ ] to satisfy services/goods ordered under the contract for the current fiscal year [ FY 0\_\_ ]. The first sentence in Paragraph \_\_\_\_\_ is hereby modified accordingly. The total contract value to include all previous amendments, option letters, etc. is [ \$ \_\_\_\_\_ ].

**APPROVALS:**

**State of Colorado:**

Bill Ritter, Jr., Governor

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[ Executive Director/College President ]  
Colorado Department of \_\_\_\_\_ or Higher Ed Institution \_\_\_\_\_

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

CRS 24-30-202 requires that the State Controller approve all state contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The contractor is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for goods and/or services provided.

**State Controller  
Leslie M. Shenefelt**

By: \_\_\_\_\_

Date: \_\_\_\_\_



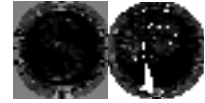


## Agenda Item 11 L

**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Resolution No. 13 re Spring 2008 Great Outdoors Colorado Grant Application

**Prepared By:** Heather Cronenberg, Open Space Coordinator

**Recommended City Council Action**

Adopt Resolution No. 13 authorizing the City to pursue a grant with Great Outdoors Colorado (GOCO) during the 2008 spring cycle for the acquisition of the Doulos Ministries parcel.

**Summary Statement**

- The Department of Community Development wishes to pursue a grant from Great Outdoors Colorado for funding assistance with the Doulos Ministries acquisition.
- Staff recommends requesting up to \$400,000 for a grant to match open space bond funds to assist with the acquisition of the Doulos Ministries property, located at 124<sup>th</sup> Avenue and Zuni Street. Staff pursued a grant in the amount of \$1,255,000 from Adams County in the Fall, 2007 grant cycle to assist with this acquisition. The City was awarded \$600,000 towards the purchase. A second grant in the amount of \$655,000 was recently submitted to Adams County for the Spring, 2008 grant cycle. The total purchase price for this property is \$2,650,000. The Open Space Advisory Board considers the acquisition of the Doulos property a high priority and recommends this purchase.

**Expenditure Required:** Matching funds in the amount up to \$1,650,000 for the GOCO grant for the Doulos Ministry acquisition.

**Source of Funds:** Open Space Bond Funds

**Policy Issue**

Should the City attempt to seek assistance for the acquisition of this property by pursuing grant monies from the GOCO Grant Program?

**Alternative**

Council could choose not to pursue additional funding for this acquisition and use Open Space Bond Funds for the purchase amount. Staff recommends attempting to secure additional funding for this acquisition through this grant opportunity to allow for open space acquisition assistance.

**Background Information**

The City has been successful in applying for and receiving grants from a variety of sources in the past. In recent years, the City has received grant money from Adams and Jefferson County Open Space programs for park and trail development projects as well as open space acquisitions. The City successfully received a GOCO grant for the Metzger Farm purchase in 2006.

The Doulos Ministries parcel is the location of a residential treatment facility for youth. The property has been on the market for sale for several years. The appraisal for the property values the land at \$2,750,000. Staff negotiated a sales price at \$100,000 less than the appraisal amount or \$2,650,000. Staff expects to close on the property on March 18, 2008. Staff applied for a grant for the Doulos Ministries acquisition from the Adams County Open Space program for the Fall, 2007 grant cycle in the amount of \$1,255,000. Adams County awarded a \$600,000 grant towards the purchase price. A second grant in the amount of \$655,000 was submitted to Adams County for the Spring, 2008 grant cycle. Staff would like to submit a third grant to GOCO for up to \$400,000 towards the purchase price. If the GOCO and second Adams County grants are awarded, a total of \$1,655,000 in grants will go towards the purchase of the Doulos Ministries parcel.

The Doulos Ministries property is a high priority acquisition for the City's Open Space Advisory Board. This property is the last remaining privately owned property along Big Dry Creek between Old Wadsworth and I-25 in the City. The Big Dry Creek trail which crosses the parcel is on a temporary trail easement subject to immediate revocation. The property has extensive wetlands and floodplain areas and affords beautiful mountain views. Acquisition of this property would preserve a 1,600 foot wide wildlife corridor along the creek. The Colorado Division of Wildlife recommends protecting a 1,000 foot wide corridor along streams such as Big Dry Creek to accommodate wildlife movements. The existing buildings on the site would be demolished and the land revegetated after Doulos vacates the site.

This grant request supports the City's Strategic Plan Goals of "Financially Sustainable City Government" and "Beautiful City" by increasing revenues that support defined City projects and by providing the City with increased open space.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

RESOLUTION

RESOLUTION NO. **13**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**Major - Lindsey**

**GRANT REQUEST FOR THE 2008 GREAT OUTDOORS COLORADO GRANT PROGRAM**

WHEREAS, Great Outdoors Colorado has established a grant application process to assist municipalities and non profits within the state with open space acquisitions; and

WHEREAS, The City of Westminster has a strong interest in purchasing the Doulos property for Open Space and;

WHEREAS, grant money received from Great Outdoors Colorado would assist with the acquisition of this property.

WHEREAS, grant money received from Great Outdoors Colorado would reduce the amount of money needed from the Open Space Bond Funds to purchase this property.

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a grant application to the Great Outdoors Colorado Grant program for the Spring funding cycle of 2008, requesting funding in the amount of up to \$400,000 for the Doulos Ministries acquisition.

PASSED AND ADOPTED this 25<sup>th</sup> day of February, 2008.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Doulos Ministries Property





**WESTMINSTER**  
**COLORADO**

## Agenda Memorandum

City Council Meeting  
February 25, 2008



**SUBJECT:** Councillor's Bill No. 7 re Lease of Open Space Property to Doulos Ministries

**Prepared By:** Heather Cronenberg, Open Space Coordinator

### Recommended City Council Action

Pass Councillor's Bill No. 7 authorizing the execution of a 10 month lease in substantially the same form as the attached agreement for the Doulos Ministries property located at 12550 Zuni Street, Westminster, CO 80234.

### Summary Statement

- City Council approved the purchase of the Doulos Ministries property at the September 24, 2007 meeting. The City plans to close on the 38-acre Doulos Ministries property on March 18, 2008. This property will be acquired for open space and for the Big Dry Creek trail that runs through this property.
- The City entered into a Purchase and Sale Agreement with Doulos Ministries Inc. on November 1, 2007 to acquire the property. The Purchase and Sale Agreement included the right for Doulos Ministries to lease the property from the City after the purchase for a period of 10 months to allow the owners to continue operation of their youth camp through December 31, 2008. The Seller agreed to lower the purchase price by \$100,000 from the appraised value of \$2,750,000 in part as consideration for the lease.
- Included in the City Council approval was the statement that staff will present a proposed ordinance approving the lease of the property back to Doulos Ministries, per the City Charter requirements, prior to closing on this acquisition so the tenant can continue its current use of the property. The form of lease has been approved by the City Attorney's Office and by the Tenant. The lease will not be executed until after the property closing has occurred.

**Expenditure Required:** \$ 0

**Source of Funds:** N/A

**Policy Issue**

Does City Council wish to authorize the execution of a ten month lease for rental of the Doulos Ministries property?

**Alternative**

City Council could reject this lease approval request and direct Staff to change the terms of the Purchase and Sale Agreement to not allow leasing of this property back to Doulos Ministries. This alternative is not recommended as the Seller negotiated the right to lease back as a condition of the Purchase and Sale Agreement.

**Background Information**

The City plans to purchase the 38-acre Doulos Ministries property for open space on March 18, 2008 as approved by City Council. The Purchase and Sale Agreement contains a requirement that the City lease back the property to Doulos Ministries for a period of ten months after closing to allow the Seller to continue the operation of the youth camp on site through the summer program. During this 10 month period the Seller will be constructing a new camp in Kansas for its youth programs.

Staff negotiated a lease with Doulos Ministries to lease the property back to them for a period of 10 months. During this period, public access will not be allowed on this site except for on the portion of the Big Dry Creek trail that currently passes through the Doulos property. The lease back was a requirement for the Sellers to agree to the acquisition of the property by the City.

The City Charter requires that leases be approved by City Council by ordinance. Staff is recommending approval by Council at this time so that the lease can be approved prior to the contractual closing.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. **7**

SERIES OF 2008

INTRODUCED BY COUNCILLORS  
**Briggs - Dittman**

**A BILL  
FOR AN ORDINANCE APPROVING A LEASE AGREEMENT FOR THE LEASE OF THE  
DOULOS PROPERTY LOCATED AT 12550 ZUNI STREET**

WHEREAS, the City of Westminster will purchase the Doulos Ministries property located at 12550 Zuni Street, Westminster, CO 80234. Doulos Ministries has requested that the City allow it to remain on this property and continue its current use of the facilities on the property through December, 2008; and

WHEREAS, Doulos Ministries negotiated the right to remain on the property through December, 2008, as part of the Purchase Agreement; and

WHEREAS, the tenant has been screened and determined to be suitable for the property; and

WHEREAS, the final form of the lease agreement has been agreed to by the parties; and

WHEREAS, the City Charter requires such lease be approved by ordinance.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. The Lease Agreement between Doulos Ministries Inc. and the City for the property located at 12550 Zuni Street, Westminster, CO 80234, in substantially the form attached to this Ordinance, is approved.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 25<sup>th</sup> day of February, 2008.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 17<sup>th</sup> day of March, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney's Office

## LEASE AGREEMENT

THIS LEASE AGREEMENT, made this 18th day of March, 2008, between the **CITY OF WESTMINSTER**, a Colorado home rule municipality (the "City"), and **DOULOS MINISTRIES, INC.**, whose address is 12550 Zuni Street, Westminster, CO 80234, (the "Lessee").

WHEREAS, the City has purchased from the Lessee on this date the property described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, in conjunction with the sale of the Property to City, Lessee has requested permission to remain on the Property for a period of time pursuant to the terms of this Lease Agreement.

WITNESSETH that in consideration of the covenants and agreements by the Lessee hereinafter set forth, and for other good and valuable consideration, the City hereby leases unto the Lessee the Property situated in the County of Adams, State of Colorado, subject to the following Terms and Conditions:

### TERMS AND CONDITIONS OF LEASE

A. The term of this Lease shall be for the period commencing on March 18, 2008, and ending on December 31, 2008, at 12:00 p.m. MST.

B. In consideration of the lease of the Property, the Lessee covenants and agrees as follows:

1. Lawful Use. To use the Property for no purpose prohibited by the laws of the United States or the State of Colorado, or the ordinances of the City of Westminster.

2. Entry by City: To allow the City access at all times to enter onto the Property.

3. Occupancy. Not to permit the Property to be used for any purpose which would render the insurance thereon void or the insurance risk more hazardous.

4. Alterations; Modifications. Not to make any alterations to, or modifications in or upon the Property without first obtaining the City's written consent. All such alterations or modifications shall be done in conformance with all applicable laws, codes, regulations, and rules of the City and the State of Colorado. All such alterations or modifications shall be done at the Lessee's expense. Further, unless the parties otherwise agree in writing, the Lessee shall be obligated to restore the Property to the original condition as entered upon if requested to do so in writing by City.

5. Duty of Care. To exercise reasonable supervision of all guests at all times when they are in or upon the Property.

6. Damage by Lessee. To reimburse the City for any expense incurred by it in repairing any damage to the Property caused by Lessee, his employees or agents, or any person in his care.

7. Indemnity. To indemnify and hold harmless the City from and against any claim for personal injury or property damage resulting from any act or omission of Lessee or its agents, to carry liability insurance covering bodily injury and property damage in an appropriate amount and to make the City, its directors, officers, employees and agents additional named insured under its policy of liability insurance, and to provide the City with a copy of such insurance policy as evidence of coverage.

8. Subletting. To sublet no part of the Property, or assign this lease or any interest therein.

9. Nuisance. Not to permit any disorderly conduct or nuisance whatever about the Property or the Property, including the buildings and the building grounds, and to not annoy, disturb or interfere with the City's or the public's use of the Property.



10. Surrender in Good Condition. At the expiration or termination of this lease to surrender and deliver up the Property in as good order and condition as when the same were entered upon, loss by fire, and ordinary wear excepted.

C. The City and the Lessee further covenant and agree that:

1. Maintenance by Lessee. Lessee shall be responsible for the total caretaking and maintenance of the exterior and interior of the Property and all items brought onto the Property by the Lessee.

2. Maintenance by the City. Lessee accepts the Property "as is" and acknowledges that the City shall have no obligation for maintenance or repair of the Property.

3. Emergency Repairs. Lessee agrees to perform all repairs of an emergency nature necessary to protect the Property from undue and avoidable injury or damage.

4. Utilities. All charges for water and water rents, for heating, and for lighting of the Property are to be paid by Lessee.

5. Telephone Charges. Lessee will be responsible for payment for all telephone installation and service charges.

6. Keys. The City will provide Lessee with a reasonable number of keys for interior and exterior doors of the buildings on the Property.

7. The City is Not Responsible for Lessee's Personal Property. The City shall have no responsibility or liability for any loss or damage to any personal property of the Lessee or any fixtures installed by the Lessee, whether Lessee has obtained insurance coverage or not.

8. Flammable, Hazardous Materials. Lessee shall store no flammable, toxic, dangerous, hazardous or obnoxious materials anywhere on the Property.

9. Live Animals. Lessee shall neither bring nor permit the bringing of any live animals into the Property, except pets to the extent permitted by the Westminster Municipal Code.

10. Untenantable Conditions. If the Property becomes so damaged by fire, flood, act of God or any other casualty not caused by the Lessee so as to render the Property untenantable, the Lessee may terminate this Lease without further obligation.

11. Vacancy of Property. If the Property are left vacant the City may, at its option, either retake possession of the Property, terminating the Lease and the City's and Lessee's obligations hereunder, or it may re-rent the Property.

12. Insolvency of Lessee. If the Lessee becomes insolvent, or is declared bankrupt, the City may terminate this Lease forthwith, and all rights of the Lessee hereunder shall thereupon terminate.

13. Peaceable Surrender. At the expiration of the term of this Lease, whether by passage of time or by act of the City as provided in this Lease Agreement, the Lessee shall surrender and deliver up the Property peaceably to the City, and if the Lessee shall remain in possession after termination of this lease, the Lessee shall be deemed guilty of a forcible detainer of the Property under the statute, and shall be subject to eviction and removal in accordance with state law.

14. Default. If default shall be made in any of the covenants or agreements contained in this Lease Agreement to be kept by Lessee, it shall be lawful, upon 30 days written notice, for the City to declare the term ended and to repossess the Property in accordance with state law.

15. No Waiver. No assent, express or implied, to any breach of any one or more of the covenants or agreements contained in this Lease Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.

16. Designated Representatives. The following persons are hereby designated by the parties as the persons responsible for the implementation of this Lease. Should Notices need to be sent or problems arise concerning this Lease the parties agree to contact:

For the Lessee:

Mack Sands  
Doulos Ministries, Inc.  
801 W. Mineral Avenue  
Littleton, CO 80120-4501

For the City of Westminster:

Heather Cronenberg, Open Space Coordinator  
Department of Community Development  
City of Westminster  
4800 West 92nd Avenue  
Westminster, CO 80031  
303-430-2400, Ext. 2142

17. Insurance. The City will provide insurance against loss to the fixtures only due to fire or other casualty. The Lessee will be solely responsible for any loss to any personal property associated with the Property.

IN WITNESS WHEREOF the parties have executed this indenture the day and year first above written.

CITY OF WESTMINSTER

LESSEE:

By: \_\_\_\_\_  
J. Brent McFall  
City Manager

\_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Linda Yeager  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney

EXHIBIT A

All of Bethlehem Fathers Incorporated, Bethlehem Center Tract,  
County of Adams, State of Colorado.

Except for that portion taken and described in Rule and Order recorded October 26, 2001 at Reception  
No. C0877729.



**WESTMINSTER**  
**COLORADO**

**Agenda Memorandum**

City Council Meeting  
February 25, 2008



**SUBJECT:** Resolution No.14 re Consent to Modification of Revenue Sharing Intergovernmental Agreement with Broomfield

**Prepared By:** Steve Smithers, Assistant City Manager

**Recommended City Council Action**

Adopt Resolution No.14 consenting to the assignment of revenues pursuant to the 1999 Intergovernmental Agreement (IGA) between Broomfield and Westminster and authorizing the City Manager to execute all documents necessary to implement the assignment, including but not limited to, such amendments to the IGA and the Memorandum Agreement that the City Managers of the respective cities may deem appropriate.

**Summary Statement**

- The City has been in negotiations with Broomfield for the better part of three years over an IGA that would allow Broomfield to obtain access permits for 136<sup>th</sup> Avenue within Westminster for the Lambertson Development that is located on the northwest corner of 136<sup>th</sup> and Huron.
- The IGA was structured to address a number of issues related to the Lambertson Development, the 1999 Revenue Sharing agreement between the cities, and other issues of mutual interest.
- Approximately four weeks ago Broomfield approached the City to indicate that they needed to get the access issue related to the Lambertson Development resolved immediately.
- The two cities negotiated, and arrived at a mutually beneficial proposal that assigns any future positive net revenues from the 1999 IGA to Westminster and gives Broomfield the access to 136<sup>th</sup> Avenue that will allow the Lambertson Development to move forward.
- Broomfield passed a resolution setting forth the terms of the agreement on January 29, 2008 (see attached copy).

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should the City consent to the modification of the 1999 Revenue Sharing arrangement as outlined in this agenda memorandum?

**Alternative**

City Council could choose to not adopt the resolution and not consent to the change to the 1999 Revenue Sharing Arrangement. This is not recommended as the proposed assignment is projected to result in the City receiving more than \$225,000 in increased sales tax collections annually from the Sheridan and 120<sup>th</sup> revenue sharing area for the next 26 years that would otherwise be paid to Broomfield.

The terms of the assignment outlined in the attached Broomfield resolution could be modified. This is not recommended as Staff was able to come to agreement with Broomfield on the major areas of concern that included: payment of Huron recoveries, detention issues on the Lambertson site, and issues related to design and maintenance of 136<sup>th</sup> Avenue. Broomfield has already adopted the deal points as outlined in the resolution.

**Background Information**

In 1999 the City requested access to 120<sup>th</sup> Avenue, which is located within Broomfield's city limits, to allow the Kohl's department store development to move forward. Broomfield approached Westminster with a requirement to share revenues from the Kohl's development in return for allowing access to 120<sup>th</sup> avenue. An IGA and Memorandum Agreement were signed by both jurisdictions in 1999 and have resulted in cumulative payments from Westminster to Broomfield of over \$1.5 million dollars.

Broomfield approached the City about three years ago to begin discussions about gaining access for the Lambertson parcel at 136<sup>th</sup> Avenue and Huron Street to allow a potential grocery store anchored development to move forward. Interest in development of this parcel was significantly heightened by Westminster and Thornton's construction of the 136<sup>th</sup> and I-25 interchange. City Staff has been diligently attempting to work with Broomfield to address impacts from the Lambertson development including elimination or modification of the 1999 Revenue Sharing IGA.

The negotiations were start and stop until very recently when Broomfield approached the City on their desire to gain immediate access permits for 136<sup>th</sup> Avenue. City Staff noted to Broomfield that the IGA under negotiation was the means to get this done. Broomfield indicated that their timeframe was too short to be able to complete negotiations on all of the pieces contained within the IGA. Broomfield proposed an abbreviated arrangement under which they would assign the net revenues from the 1999 IGA on the Kohl's property to Westminster in return for guarantees that access permits and other approvals from Westminster would be forthcoming.

Negotiations proceeded and Westminster Staff identified several key issues that needed to be addressed prior to moving forward. These issues were: Broomfield had to commit to cause the developer of the site to pay appropriate recoveries for Huron Street improvements; Broomfield had to assure that the developer would include appropriately engineered drainage facilities to assure protection of downstream property; maintenance of the full width of the 136<sup>th</sup> Avenues roadway would be Broomfield's obligation; and, Westminster Staff would be given engineering review of 136<sup>th</sup> Avenue construction plans to assure that traffic issues are addressed. Broomfield agreed to all of these requirements and included these in the resolution adopted on January 29, 2008.

The final step in this process is for the City to adopt a resolution consenting to the assignment by Broomfield to the City of Westminster of any future positive net revenues from the 1999 IGA, and for City Council to authorize the City Manager to execute any necessary documents to implement the assignment. Staff believes this is a good deal for both cities and is very comfortable making the recommendation to proceed.

Respectfully submitted,

J. Brent McFall  
City Manager

Attachments

- Resolution
- Broomfield Resolution

RESOLUTION

RESOLUTION NO. **14**

INTRODUCED BY COUNCILLORS

SERIES OF 2008

**Briggs - Major**

**A RESOLUTION CONSENTING TO THE ASSIGNMENT OF REVENUES PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF BROOMFIELD**

WHEREAS, the City of Westminster and the City and County of Broomfield are parties to that certain "Intergovernmental Agreement By and Between the City of Broomfield and the City of Westminster for Cooperation on the Southwest Corner of Sheridan Boulevard and West 120<sup>th</sup> Avenue," dated February 23, 1999 (the "IGA"); and

WHEREAS, pursuant to Section 3.5 of the IGA, the parties agreed to a revenue sharing arrangement for sales and property taxes collected within a specified area; and

WHEREAS, the specific arrangements for reporting and making revenue sharing payments are contained in a Memorandum Agreement by and between the City of Broomfield and the City of Westminster dated October 5, 1999, which Memorandum Agreement was contemplated in Section 3.5(c) of the IGA; and

WHEREAS, the IGA allows for assignment of rights under the IGA, provided that the other municipality consents to the assignment; and

WHEREAS, on January 29, 2008, the City and County of Broomfield agreed to assign to the City of Westminster, effective February 1, 2008, any future positive net revenues derived from Section 3.5 of the IGA, subject to certain conditions (the "Assignment"); and

WHEREAS, one of the conditions to said Assignment was that the City Council of the City of Westminster consents to the Assignment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Westminster:

1. The City Council of the City of Westminster consents to the Assignment as defined above.
2. The City Council authorizes the City Manager to execute all documents necessary to implement said Assignment, including, but not limited to, such amendments to the IGA and the Memorandum Agreement that the City Managers of the respective Cities may deem appropriate.

PASSED AND ADOPTED this 25th day of February, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

*As amended January 29, 2008.*

RESOLUTION NO. 2008-40

A RESOLUTION AUTHORIZING AN ASSIGNMENT TO THE CITY OF WESTMINSTER OF THE NET REVENUES DERIVED FROM THE INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY AND COUNTY OF BROOMFIELD AND THE CITY OF WESTMINSTER FOR COOPERATION ON THE SOUTHWEST CORNER OF SHERIDAN BOULEVARD AND WEST 120<sup>th</sup> AVENUE

WHEREAS, the City and County of Broomfield and the City of Westminster have worked cooperatively and collaboratively on a number of projects over the years, in the interests of their citizens; and

WHEREAS, the City and County of Broomfield and the City of Westminster have numerous ongoing and future projects of mutual interest, including the extension of the large drainage swale along the south side of 120<sup>th</sup> to Big Dry Creek, expansion of the east side of Lowell Boulevard north of 120<sup>th</sup> Ave, construction of two eastbound lanes on 136<sup>th</sup> Ave between Zuni, and Huron and participation with Broomfield in the development of a regional park in the area of McKay Lake east of Zuni; and

WHEREAS, the City and County of Broomfield desires to continue to work cooperatively and collaboratively with the City of Westminster on these and other projects;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. On March 23, 1999, the Broomfield City Council authorized an Intergovernmental Agreement between the City of Broomfield and the City of Westminster for cooperation on the Southwest corner of Sheridan Boulevard and West 120<sup>th</sup> Avenue (the "Agreement"). Pursuant to Section 3.5 of the Agreement, the parties agreed to a revenue sharing arrangement for sales and property taxes collected within a specified area. The specific arrangements for reporting and making revenue sharing payments are contained in a Memorandum Agreement by and between the City of Broomfield and the City of Westminster dated October 5, 1999, which Memorandum Agreement was contemplated in Section 3.5(c) of the Agreement. To date, the effect of the revenue sharing has been that Broomfield has received positive net revenue from the arrangement.

Section 2. The Agreement allows for assignment of the rights under the Agreement, provided that the other municipality consents to the assignment.



Section 3. The City and County of Broomfield hereby agrees to assign to the City of Westminster, effective February 1, 2008, any future positive net revenues derived from Section 3.5 of the Agreement, provided all of the following conditions have been met:

A. The City Council of the City of Westminster consents to the assignment;

B. Not later than January 31, 2008, the City of Westminster has issued permits to allow all necessary work to be conducted within the City of Westminster and any of its rights of way so as to allow construction of improvements to West 136<sup>th</sup> Avenue and access to the Lambertson development;

C. Not later than January 31, 2008, the City of Westminster has approved the Construction Plans for all access and roadway construction including extension of the Quail Creek box culvert and utility installations associated with the Lambertson Development.

Section 4. Said assignment shall remain effective for the remainder of the term of the Agreement, provided, however, that the following conditions have been met:

A. The City of Westminster, subject to engineering review, approves the application to FEMA for the Quail Creek Letter of Map Revision for the Lambertson Development within 10 days of submittal, which approval will not be unreasonably withheld.

B. The City of Westminster grants authorization and approval of traffic signal installation at 136<sup>th</sup> Ave and Tejon St. within 30 days from when requested, subject to review of engineering plans submitted at the time of the request, but which approval will not be unreasonably withheld.

C. The City of Westminster grants authorization and approval of future traffic signals at certain full access locations associated with Broomfield's Lambertson Development within 30 days of submittal subject to engineering plan review, but which approval will not be unreasonably withheld. Full Access locations include Quivas St., N. Kalamath St., and W. 138<sup>th</sup> Ave. approximately 750 feet to 1,100 feet north of 136<sup>th</sup> Ave on Huron St.

D. The City of Westminster grants access and approves construction, subject to engineering plan review, but which approval will not be unreasonably withheld, for access to Huron Street for West 138<sup>th</sup> Avenue

and for a right-in right-out access approximately 385 feet north of West 136<sup>th</sup> Avenue on Huron Street, within 30 days of submittal by Broomfield.

E. In the event that, during the term of the Agreement, the City of Westminster derives positive net revenues from Section 3.5 of the Agreement, the City of Westminster shall assign its positive net revenues to the City and County of Broomfield.

F. The City of Westminster shall not be in default of any conditions in this Section 4 due to any delay by any party other than the City of Westminster.

Section 5. Provided the City of Westminster is not in default of any of the conditions of Section 3 above then the City and County of Broomfield shall enforce Section 14.12 of the Subdivision Improvement Agreement between the City and County of Broomfield and the Lambertson Family, LLP, approved on June 27, 2006, which states, "The Owner shall be responsible to the City of Westminster for reimbursement for construction costs for Huron Street adjacent to the Property...."

Section 6. Provided the City of Westminster is not in default of any of the conditions of Sections 3 and 4 above, then subsequent to the reconstruction of 136<sup>th</sup> Avenue and acceptance of the improvements, as set forth above herein, the City and County of Broomfield will maintain the roadway north of the south curb of 136<sup>th</sup> Avenue, as such roadway exists between Huron Street and Zuni Street.

Section 7. The mayor or mayor pro tem is authorized to sign and the city clerk to attest a written assignment of the positive net revenues to the City of Westminster, in form approved by the city & county attorney. The city and county manager is authorized to make any necessary alterations to the Memorandum Agreement to account for the assignment of positive net revenues to the City of Westminster.

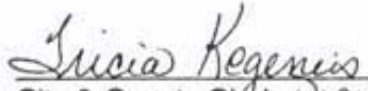
Section 8. This resolution is effective upon its approval by the City Council, but the assignment shall not be effective unless all of the conditions set forth in Section 3 hereinabove have been met. In the event that those conditions have not been met, this assignment shall be null and void and of no legal effect. In the event that the City of Westminster shall fail to honor the obligations set forth in Section 4 hereinabove, the assignment authorized herein shall terminate as of the last day of the month in which the obligation was not fulfilled.

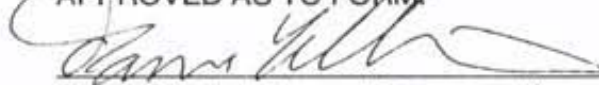
APPROVED on January 29, 2008.

THE CITY AND COUNTY OF BROOMFIELD,  
COLORADO



  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City & County Clerk, Deputy

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
City & County Attorney, Deputy

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY**  
**WESTMINSTER CITY HALL, 4800 W. 92<sup>ND</sup> AVENUE**  
**MONDAY, February 25, 2008**  
**7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting (February 11, 2008)**
- 3. New Business**
  - A. Holly Park Real Estate Broker Listing Agreement
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY  
MONDAY, FEBRUARY 25, 2008 AT 8:18 P.M.

ROLL CALL

Present at roll call were Chairperson McNally, Vice Chairperson Dittman, and Board Members Briggs, Kaiser, Lindsey, Major, and Winter. Also present were J. Brent McFall, Executive Director, Martin McCullough, Attorney for the Authority, and Linda Yeager, Secretary.

CONSIDERATION OF MINUTES

Board Member Briggs moved, seconded by Kaiser, to approve the minutes of the meeting of February 11, 2008 with no additions or corrections. The motion carried unanimously.

HOLLY PARK REAL ESTATE BROKER LISTING AGREEMENT

Vice Chair Dittman moved to authorize the Executive Director to execute a Real Estate Listing Contract with Coldwell Banker Commercial for the marketing and listing of the undeveloped Holly Park property on Federal Boulevard between 96<sup>th</sup> and 97<sup>th</sup> Avenues. Board Member Major seconded the motion and it carried unanimously.

ADJOURNMENT

There being no other business to come before the Authority, the meeting adjourned at 8:20 p.m.

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairperson

# WEDA Agenda Item 3 A

## Agenda Memorandum

Westminster Economic Development Authority Meeting  
February 25, 2008



**SUBJECT:** Holly Park Real Estate Broker Listing Agreement

**Prepared By:** Aaron B. Gagné, Capital Projects Coordinator

### Recommended Board Action

Authorize the Executive Director to execute a Real Estate Listing Contract with Coldwell Banker Commercial for the marketing and listing of the undeveloped Holly Park property on Federal Boulevard between 96<sup>th</sup> and 97<sup>th</sup> Avenues.

### Summary Statement

- In 2006, the Westminster Economic Development Authority (WEDA) acquired the abandoned portions of the Holly Park townhome project. The uncompleted buildings were subsequently demolished, yielding a redevelopment site of approximately 5.7 acres. The site is considered “ready-to-build,” as it had been previously approved for the remaining 58 townhomes and a clubhouse.
- A Request for Proposals was distributed to the development community and heavily advertised in late 2006 and early 2007. One unacceptable proposal was received as a result. Staff believes that the lack of response was largely due to the severely declining residential market.
- Real estate developers are again entering the market, with land acquisitions that would yield available for-sale product in 18-24 months. Staff is recommending returning the property to the market with a listing broker to cultivate that interest.
- Staff solicited proposals from three different real estate brokers, and is recommending entering into an agreement with Coldwell Banker Commercial. This team is headed by Rick Chase, formerly an appraiser that completed a great deal of appraisal work for WEDA on the Holly Park site. Coldwell Banker appears to be the best choice based upon the depth of experience at Coldwell Banker and a competitive commission structure.
- The proposed commission with the recommended broker is 6% of the sales price of the site for a sale that involved a second broker, or 5% of the sales price should the listing agent solely represent the transaction.

**Expenditure Required:** \$0

**Source of Funds:** N/A

**Policy Issue**

Should WEDA enter into a real estate listing agreement with Coldwell Banker Commercial for the sale of the undeveloped Holly Park property?

**Alternatives**

Alternatives are as follows:

- 1) Do not list with a real estate broker. This alternative would likely extend the length of time and thereby the expense of WEDA carrying the property. Costs include maintenance and insurance costs, as well as staff time.
- 2) List with another real estate broker. Staff solicited proposals from multiple real estate brokers. They were reviewed in the context of their experience, depth of Staff resources and proposed commission structure. As a result, the proposal from Coldwell Banker is considered to be the best.

**Background Information**

When WEDA acquired the Holly Park property, the initial efforts of staff were to clear the abandoned structures and to improve the living conditions of the 12 occupied units in the middle of the site. The demolition and re-grading contributed to that improvement, as has investment in improving the landscaping, restoring the irrigation system and general maintenance and upkeep of the property.

Initially, staff was hopeful that a new developer would be identified quickly, but poor market conditions made that unrealistic. In recent months, an uptick in developers acquiring land for development has occurred in the area, and Staff believes that now would be an appropriate time to return the property to the market.

Respectfully submitted,

J. Brent McFall  
Executive Director